Dissertation on:

Safeguarding Traditional Knowledge through Geographical Indications: Emphasizing the Rights of Indigenous Communities of India

Guidelines

LLM. Dissertation submitted in the partial fulfillment of the requirement for the Degree of Master of Laws at the Sister Nivedita University (SNU) Kolkata

Submitted by: Soumya Mukherjee

Enrollment Number: 2321215005039

Registration Number: 230050397973

Session: 2023-2025

Under the Guidance of:

Dr Susmita Dhar

(Assistant Professor of Law)

Department of Law

Sister Nivedita University

2025

SISTER NIVEDITA UNIVERSITY

DG Block, 1/2 (NEW TOWN), Action Area 1, Kolkata- 700156

Phone: +91-7595044470, 75950444709, 830653112

Official Website: https://snuiv.ac.in

Email: info@snuiv.ac.in

CERTIFICATE

This is to certify that the dissertation titled "**Safeguarding Traditional Knowledge through Geographical Indications: Emphasizing the rights of Indigenous communities of India**" has been submitted by **Soumya Mukherjee**, bearing Enrollment ID. No: 2321215005039, Registration: 230050397973 for partial fulfillment of the Degree of Master of Laws (LL.M) from Sister Nivedita University under my guidance. It is his original work and may be placed before the examiners for evaluation.

This research work has not been submitted for the award of any other degree of this University or any other University.

Date: 15.05.25

Place: Kolkata

Dr. Susmita Dhar

(Assistant Professor)

School of Law, (SNU)

A Satyam Roychowdhury initiative

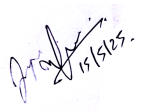
DECLARATION BY THE STUDENT

I hereby declare that the work which is being presented in this dissertation entitled **"Safeguarding Traditional Knowledge through Geographical Indications: Emphasizing the rights of Indigenous communities of India"** in partial fulfilment of the requirements for the award of the degree of Bachelors/Masters/Ph.D of Masters in Corporate Law is an authentic record of my own work carried out during the period from February 12, 2025 to April 22, 2025 under the supervision of Dr. Susmita Dhar, Department of Law, Sister Nivedita University.

I acknowledge that I have read and understood the UGC regulations, 2018 (Promotion of Academic integrity and Prevention of Plagiarism in Higher Educational Institutions).

I confirm that this dissertation has been checked for plagiarism using the plagiarism checking software TURNITIN. At the end of the dissertation, a copy of the summary report demonstrating similarities in content and its potential source (if any), generated online using plagiarism checking software is enclosed. I herewith confirm that the dissertation has been less than 10% similarity according to the plagiarism checking software's report and meets the UGC Regulations as well as the plagiarism rules of Sister Nivedita University.

I further declare that no portion of the dissertation or its data will be published without the Institute's or supervisor's permission. I have not previously applied for any other degree or award using the topics and findings described in my dissertation.



(Signature of the student with Date)

Name of the student - Soumya Mukherjee

Registration No. - 230050397973

Department - Law

ACKNOWLEDGEMENT

With great pleasure, I wish to express my deep sense of indebtedness and heartfelt gratitude to my Supervisor, Dr. Susmita Dhar, for the valuable guidance, support and encouragement throughout the completion of this work, without which this work would not have been fulfilled. I humbly acknowledge her untiring effort for all her valuable research tips and analytical views for pruning my writing skills.

I am very thankful to Dr. Debashree Mukherjee, Professor and Dean, Department of Law, SNU (Kolkata) for her constant support and for keeping me inspired and motivated throughout my entire journey of LL.M at this esteemed university.

At the same time, Dr. Banita Bose, professor and HOD, Law, SNU (Kolkata) for her unceasing encouragement, suggestions and for extending all sorts of help during the entire course of study. Furthermore, I feel deeply honored to express my sincere thanks to all the faculty members for lending a guiding hand and teaching me the fundamentals of research work. They gave me many valuable inputs for imparting the basic research skills in me for which I shall remain grateful to them forever.

I am grateful to Dr. Shambhu Prasad Chakrabarty, Professor and Dean, Department of Law, UEM (Kolkata) for his valuable insights on the topic and his unwavering support in conducting the preliminary research for this thesis. The completion of this paper would not have been possible without his guidance and mentorship.

I extend my special thanks to the various sources of information, including books, periodicals, journals, magazines, internet web sources and to all the authors quoted in this research work.

I heartily and respectfully consign my gratitude to the library staff of WBNUJS and SNU, which has always been cooperative and for procuring books that were not otherwise available.

Thanks are due to some of my friends in big and small ways; they are all responsible for my interest and enthusiasm.

My endless gratitude is to my parents and family, who have believed in me and prayed for the successful completion of this work.

Finally, I offer my regards to all those who supported me in any respect during the completion of this dissertation whose names could not be mentioned here. The constant support and assistance I have received from everybody has been truly overwhelming and has motivated me to strive for even better results in my future work.

PREFACE

Intellectual property is the ownership of an idea, information, invention or innovation created by someone's intellectual power. Traditional knowledge has emerged as a recent addition to the already existing forms of intellectual property, however since the concepts of traditions, culture and knowledge exist in an intangible unwritten form and hence can be subjected to being forgotten and lost over the ages. The indigenous communities of India, responsible for safeguarding years of generational traditional knowledge rightfully deserved a protective mechanism focused on promoting and protecting their age-old knowledge, cultures and tradition. This led to the rightful recognition and protection of such traditional knowledge under the system of intellectual property law.

Patent protections have become prominent in the fields of biotechnology, biodiversity and traditional knowledge; however, these claims are made by companies for industrialized purposes, on the other hand one of the most important characteristics of indigenous knowledge systems is that they are passed on from one generation to the other generation, preserved and maintained thoroughly by these communities. These local communities have gathered knowledge over several years through interactions, observations and environmental experiments. It is necessary to recognize such knowledge systems and protect them and promote the rights of these local communities as well.

Geographical Indications have emerged as a viable tool for safeguarding traditional knowledge; however, the degree of its efficiency is still a topic of debate in the intellectual property forum. Unlike other forms of intellectual property, Geographical indication tag is provided to an association of people and not to an individual person, it is recognized as a collective right which can be renewed indefinitely, for a period of 10 years. It rewards the reputation, goodwill and quality that a product from a particular geographical territory has emerged over time, in this context there exists an inter relationship between traditional knowledge and geographical indications. Cultural geography emerges as the common factor between the two and has also been recognized by the United Nations Conference on Trade and Development (UNCTAD)

In the current Indian scenario, traditional knowledge is being used as a defensive form of protection particularly in the field of traditional medicinal knowledge. There is no regard for the efforts made by these communities to conserve and promote traditional knowledge, they are being economically exploited by several industries without being a part of the Access and Benefit sharing program, which would help them achieve long term sustainable economic goals. Successful Geographical indication registration for products made using traditional knowledge can help local communities get economic benefits, promote their culture in the public domain and protect their traditional knowledge and cultural expressions from the passing of time.

LIST OF ABBREVIATIONS

The list of abbreviations are as follows:

1. ABS: Access and Benefit sharing
2. CS: Civil Suit
3. DOJ: Department of Justice
4. DLT: Delhi Law Times
5. EUIPO: European Union Intellectual Property Office
6. GATT: General Agreement on Tariffs and Trade
7. GI: Geographical Indication
8. IPR: Intellectual Property Rights
9. IK: Indigenous Knowledge
10. IP: Intellectual protection
11. IPC: International Patent Classification
12. IPCC: International panel on climate change
13. IPO: Intellectual property offices
14. ITK: Indigenous Technical Knowledge
15. MANU: Manu Patra
16. MRTP: Monopolies and Restrictive Trade Practices
17. NGO: Non-Government Organisations
18. PTC: Patent and Trademark Cases
19. SCC: Supreme Court Cases
20. SC: Supreme Court

21. TAPR: Trade-Related Aspects of Intellectual Property Rights Assistance Project

22. TRIPS: Trade-Related Aspects of Intellectual Property Rights

23. TCE: Traditional Cultural Expressions

24. TEK: Traditional Ecological Knowledge

25. THK: Traditional Health Knowledge

26. TIK: Traditional Indigenous Knowledge

27. TK: Traditional Knowledge

28. TKDL: Traditional Knowledge Digital Library

29. TKRC: Traditional Knowledge Resource Classification

30. TKS: Threatened Species Standard

31. TKS: Traditional Knowledge Systems

32. TM: Traditional Medicine

33. UNCTAD: United Nations Conference on Trade and Development

34. USPTO: United States Patent and Trademark Office

35. W.P: Writ Petition

36. WIPO: World Intellectual Property Organization

37. WTO: World Trade Organization

TABLE OF CONTENTS

INTRODUCTION TO DISSERTATION TOPIC……1

CERTIFICATE……..……... 2

SELF DECLARATION……...3

ACKNOWLEDGEMENT…… 4

PREFACE……5

LIST OF ABBREVIATIONS…… 6-7

TABLE OF CONTENTS…… 8-11

CHAPTER 1 (INTRODUCTION: BACKGROUND AND CONCEPT).....12

1.1 Prelude……12

1.2 Historical background of TK and GI…… 13

1.3 Evolution of TK and GI…… 14

1.4 The current predicament…… 15

1.5 Literature review…… 16-29

1.6 Research gap analysis……. 30

1.7 The Research Problem…… 30

1.8 Justification for the Study…… 31

1.9 Hypothesis…….. 32

1.10 Research Objectives…….. 32

1.11 Research Questions…… 33

1.12 Methodology…… 33

1.12.1 The sources relied upon for the research…… 33

1.13 Limitations of the research…… 34

1.14 Chapterization scheme/ Framework of Study…… 34-36

CHAPTER 2 (TK, GI AND INDIGENOUS RIGHTS: A COMPREHENSIVE STUDY)..... 37

2.1 Traditional Knowledge: Meaning and Overview…… 37

2.2 Conceptual Study of Traditional Knowledge…….. 38

2.3 Issues regarding Traditional Knowledge…… 39-40

2.4 Geographical Indications: Meaning and Overview…… 41

2.5 Conceptual Study of Geographical Indications…… 42

2.6 Issues relating to Geographical Indications…… 43-44

2.7 Geographical Indications, Trademarks and Patents: A general comparison…….. 45

2.8 Indigenous Community Rights: Meaning and Overview…… 46

2.9 Conceptual Study of Indigenous Community Rights…… 47

2.10 Issues relating to Indigenous Community Rights…… 48-49

2.11 The Interrelationship between TK, GI, and Indigenous Community Rights…… 50-56

2.12 Chapter conclusion…… 57

CHAPTER 3 (THE INTERNATIONAL PERSPECTIVE)..... 58

3.1 International perspective on Traditional Knowledge…… 58

3.1.1 Historic Conventions (The Berne Convention)..... 58

3.1.2 The Rio Declaration on Environment and Development…… 59

3.1.3 The Convention on Biological Diversity…….. 59

3.1.4 The International Treaty on Plant Genetic Resources for Food and Agriculture…… 60

3.1.5 The Bonn Guidelines…… 61

3.1.6 The Nagoya Protocol…… 61

3.1.7 Universal Declaration of Human Rights…… 62

3.1.8 The Agenda 21…… 62

3.1.9 Trade Related Aspects Of Intellectual Property Rights…… 63

3.1.10 United Nations Conference on Trade and Development…… 63

3.1.11 World Intellectual Property Organization…….. 64

3.1.12 United Nations Declaration on The Rights Of Indigenous Peoples…… 64

3.1.13 Convention Concerning Indigenous Peoples In Independent Countries…… 65

3.1.14 ILO Convention on Indigenous and Tribal People…… 65

3.1.15 Perspective on Traditional Knowledge (Continent Wise)..... 66

3.1.16 Recent International Developments on Traditional Knowledge…… 67

3.2 International Perspective on Geographical Indications…….. 68

3.2.1 Brief History on Geographical Indications…… 68

3.2.2 Agreements and Conventions on Geographical Indications…… 69-72

3.2.3 Recent International Developments on Geographical Indications…… 73

3.3 International Perspective on Indigenous Community Rights…… 74-76

3.3.1 Recent International Developments on Indigenous Community Rights…… 77

3.3.2 Case Studies on GI Tagged products made using TK…… 78-81

3.3.3 Chapter Conclusion…… 82

CHAPTER 4 (THE NATIONAL PERSPECTIVE)..... 83

4.1 Indian Perspective on Traditional Knowledge…… 83

4.1.1 Indian Legal Mechanisms Contextually Protecting Traditional Knowledge…… 83-87

4.1.2 Limitations and Challenges of the Existing Legal Mechanisms…… 88

4.2 Indian Perspective on Geographical Indications…… 89

4.2.1 National Ratification with International Conventions…… 89

4.2.2 Role of Reputed and Minority Indigenous Communities…… 89

4.2.3 The Need for Rules Under Geographical Indication Protection…… 90

4.2.4 Legal Mechanisms Under Geographical Indication Protection…… 91

4.2.5 GI (Registration and Protection) Act, 1999: Chapter Wise Assessment…… 91

4.2.6 Functionality of Geographical Indications…… 92

4.2.7 Functionality Problems within Minority Communities…… 92

4.2.8 Geographical Indications process overview in India…… 93-96

4.2.9 Indian perspective on Indigenous Community Rights…… 97-100

4.2.10 Recent National Developments on Indigenous Community Rights and GIs…… 101

4.2.11 Comparison between National and International Perspective…….. 102

4.2.12 Case studies on Indian Products made using Indigenous TK…… 103-107

4.2.13 Chapter Conclusion…… 107

CHAPTER 5 (CONCLUSION AND RECOMMENDATIONS)..... 108

5.1 Conclusion……. 108-110

5.2 Recommendations…… 111

5.2.1 General Recommendations…… 111-112

5.2.2 Specific Recommendations…… 113-115

5.3 Proof of Hypothesis…… 115-119

5.4 Future Scope of Study…… 119-121

5.5 Bibliography…… 122-132

CHAPTER 1: INTRODUCTION, BACKGROUND AND CONCEPT

1.1 PRELUDE

Traditional knowledge plays a vital role in the rich cultural heritage of India, it encompasses innovations, age old practices and traditional indigenous knowledge systems. However, in recent times, traditional knowledge has faced a significant increase in commercialization, which has led to its misuse by various agencies who are responsible for not adhering to the standard protocol of access and benefit sharing. It is in this context that geographical indications have emerged as a viable tool to protect traditional knowledge. They are the latest addition to the existing forms of intellectual property and are considered to be the solution to the existing problem of indigenous traditional knowledge protection and promotion of indigenous community rights.

Geographical indications as specified in the TRIPS agreement recognizes “quality, reputation or other characteristics of the goods” as conditions for protection. The quality, reputation or unique characteristics of many of the geographical indications are a result of an age-old practice where traditional and ancient formulae were transmitted from one generation to the other generation. Since geographical indications played a role in promoting the sustainable development of the socio-economic conditions of the producers of geographical indications, it was argued that there was a strong possibility of using geographical indications as a means to protect traditional indigenous knowledge.

India has a diverse range of traditional knowledge systems as it provides shelter to over 450 million indigenous people coming from various traditional communities. Amongst all the countries that stand at the forefront of traditional knowledge protection through international efforts, India is ranked highly due to its vast array of ancient traditional knowledge systems. The adoption of the Nagoya protocol on access and benefit sharing is one of the earliest efforts to promote sustainable economic development for indigenous communities in exchange for access to traditional indigenous knowledge and commercialization. However, despite these efforts, indigenous communities face unique and significant problems in safeguarding traditional knowledge through geographical indications, these include limited awareness, limited resource access, disparities between majority and minority communities and partial institutional involvement.

This dissertation aims to identify the existing knowledge gap and examine the potential of geographical indications as possible protection of traditional knowledge systems. A critical analysis of the existing legal and policy framework will help identify the challenges associated with using geographical indications as a method of traditional knowledge protection, it will also reflect on the possible opportunities that may arise and become directly proportional to long term economic growth and sustainability among these communities.

1.2 HISTORICAL BACKGROUND OF TK AND GI IN INDIA:

"We owe a lot to the ancient Indians, teaching us how to count. Without which most modern scientific discoveries would have been impossible" ~ Albert Einstein

India boasts of a rich and diverse history of traditional knowledge systems which has existed over thousands of years in various forms, it has been a home to numerous indigenous communities across various regions in the different parts of the country, each with its own set of unique generational knowledge systems, practices, and traditions. The historical evolution of traditional knowledge in India spans over four significant timelines including the ancient Indian period (3000 BCE – 500 CE) during which TK was closely associated to our rich cultural and spiritual heritage, the Vedas, the Upanishads and ancient texts containing references to the practice of Ayurveda, Jyotish Gyana, and Krishi Gyana, followed by the Medieval period (500-1500 CE) during which India was home to several empires and kingdoms , each with their own unique traditional knowledge systems which saw the development of the concept of the Unani medicine and the Siddha, which was a traditional system of medicine that originated in the southern parts of the country and focused on the use of spiritual practices and natural remedies.

A significant turn of events occurred during the colonial period (1500-1947 CE) in the form of non-recognition of ancient traditional knowledge. The Britishers were the rulers of the land and often dismissed traditional knowledge as superstitious and backward and instead promoted their own knowledge systems leading to a long-term suppression of traditional knowledge and as a result the indigenous communities were forced to reject their generational knowledge and adopt western styles of thinking and education, this also led to the loss of cultural heritage amongst these communities and erosion of indigenous identities. In the Post colonial era, (1947 CE-present) there was an upsurge in the growing recognition of the importance of traditional knowledge which ultimately led to efforts being made to revitalize lost traditional knowledge and promote indigenous community rights.

Geographical Indications which were first observed in France, Europe took a long time to get the Indian recognition and was observed for the first time when the Geographical Indication of Goods (Recognition and Protection Act) 1999 was enacted and came into power in 2003, however the concept of Geographical Indications in India has deep roots in its diverse cultural landscape and traditional artisanal practices. Historically, communities across India have produced region-specific goods known for their unique qualities and cultural significance. Examples include Darjeeling tea, Basmati rice, Kanchipuram silk, and Alphonso mangoes, which have gained recognition both domestically and internationally for their geographical origin and distinct characteristics. GIs are being contested as a viable means of safeguarding traditional knowledge as they are considered to be interrelated in aspects of collective rights and focus on geography specific product recognition, maturity and promotion.

1.3 EVOLUTION OF TK AND GI IN INDIA:

Traditional Knowledge in its true sense is considered to be an integration of the community's culture and identity and is not recognized as a distinctive knowledge, these knowledge systems have developed over thousands of years and the local communities have used them to survive and sustain their livelihoods. Communities and traditional knowledge share a relationship where one generation develops a TK and it is passed down to the other generations who protect and preserve it and these practices of protection are different depending upon cultural traditions, it is closely associated to social groups and is considered integral to their identities. Changes in the social and economic structures of the society enable modifications to be made to existing traditional knowledge systems, with the core ideas being retained and respected.

One of the important characteristics of traditional knowledge as a form of intellectual property is that it is a collective right and does not include private ownership unlike the other forms of intellectual property, as a result it has found itself in a peculiar position as the concept of collective rights grant is diminishing significantly, the reason being that granting collective rights to a community will understandably face legal hurdles in the 21st century, the focus has now shifted towards individual ownership leading to a gap which exists in the field of ancient traditional knowledge systems and indigenous collective rights. Another challenge that exists is geographical topography, meaning that a lot of these indigenous communities have survived in border state areas and are now facing opposition from cross culture communities regarding the original ownership of this ancient knowledge, in order to tackle these challenges, there is a need for a sui generis approach or local law of the land to protect these knowledge systems otherwise which they will perish with the passing of time.

Geographical indications have evolved alongside traditional knowledge in a broader sense where it is being recognized as one of the better means of protection to traditional indigenous knowledge systems. Although the concept of GIs has its roots in India's cultural and geographical diversity, it was only formally recognized as a distinctive form of intellectual property during the 1990s. It was given shape by the Indian government in the form of the Geographical Indications of Goods (Registration and Protection) Act, 1999 as a means to provide for genuine registration and protection of GIs in India, the act came into force on September 15, 2003. The Geographical Indications of goods (Registration and Protection) Rules, (2002-2006) provided the fundamentals of the GI protection framework and were later amended in 2006 to include new provisions regarding associational GI Protection.

"Darjeeling tea" received its first GI registration tag in 2004 and since then over 300 GIs have been registered across various communities and regions, covering a range of products including handicrafts, textiles, agricultural products and food items. In a recent development, there has been a significant upsurge in the promotion and protection of GI. The enforcement of GIs has been strengthened by the government in the form of GI registry and development of the

traditional knowledge digital library, however the effectiveness of using GIs to protect traditional knowledge is still uncertain and requires more data to reach a conclusion.

1.4 THE CURRENT PREDICAMENT:

Multifaceted and complex predicaments threaten to gradually erode traditional knowledge which has remained as a vital tool of survival and sustainability amongst indigenous communities for many years. The nature of these recurring problems is complex as we have evolved as human beings and traditional knowledge which was once recognized as a means of cultural integration and integrity, no longer is recognized as the same. Traditional knowledge and ancient cultural expressions are used by multinational companies to generate profits without any protocol mandating the strict rule of Access and Benefit sharing with the original inventors of these traditional knowledge systems. Biopiracy or the unauthorized use of traditional knowledge has emerged as the biggest challenge that needs to be addressed, it has resulted in the patenting of traditional knowledge without seeking permission from the original inventors of the product nor compensating them adequately.

One of the bigger problems regarding traditional knowledge protection is the lack of documentation, since knowledge was passed down from one generation to the other mostly orally, there are few accounts of documented traditional knowledge systems which can be used as reliable sources to prove its authenticity in time. Much of India's traditional knowledge remains undocumented making it difficult to protect or preserve. There is an urgent need for a sui generis system of local traditional knowledge protection as existing laws and policies are not adequate to protect traditional knowledge, leading to its misappropriation. Lastly, the ongoing erosion of traditional knowledge can be associated with the influence of modernization and urbanization, which has seen a steady decline in the collective interest of the citizens with regards to traditional knowledge protection and indigenous rights as a whole.

Geographical indications were identified as an intellectual property right to enhance the commercial possibilities of manufactured or cultivated outputs by organizations based in a specific geographical area, however its effectiveness has not been significant owing to factors like legal complications, socio economic hurdles and technical barriers. Legal challenges include disparities among different states in registering GIs where a few states have become a recipient of multiple and noteworthy GI tags whereas minority population states with an abundance of ancient traditional knowledge have fallen behind due to a lack of a sui generis model to promote their goods and products, disparities in the percentage of GI categories is also noteworthy where handicrafts and agricultural goods have stood out as prominent contenders for respective GI tags, thus creating a gap between themselves and other products. The problem of genericide is one of the legal hurdles that GI protection faces whereby if a product is declared to be a generic product or is recognized to be in accordance to a generic name in that particular country, then it becomes ineligible for registration as a GI in that country, this provision was laid down under section 9 of

the act in compliance with the TRIPS provision which gives the power to the country to decide whether a geographical name has been converted to a generic name or not. Apart from these prominent issues, geographical indication registration faces challenges in the form of low economic output and technicalities.

1.5 LITERATURE REVIEW

There is a lot of literature available in the form of books, journals and articles in relation to Traditional knowledge, Geographical indications and the indigenous communities of India. In this subsection, a brief sketch of the available literature has been done in order to understand and analyse the relevance of this topic.

Existing literature on Geographical Indications, Traditional Knowledge, and Indigenous Groups.

"Geographical Indications in India: A Legal Perspective" by **Shobhalata Udapudi and Ravi Shankar Sharma** (2018): The focus of this paper is on the legal mechanisms governing geographical indications in India, a comprehensive framework has been provided with regards to the Geographical Indication of Goods Act (Registration and Protection) Act, 1999 and its amendments. The authors have focused on the registration procedures, enforcement mechanisms, stakeholder participations and the socio economic impacts of GI registration in India. The current status of GI registration in India and the challenges that are associated with complex registration procedures are highlighted by the authors who also take the responsibility to voice the opinions of the indigenous communities that are responsible for the traditional knowledge protection. The paper also emphasizes on the need of an effective mechanism to tackle the problem of defensive mechanism rights in regards to geographical indications as the need of the hour is to provide long term economically sustainable lives for these communities.[1]

[2]"Intellectual Property Rights and Geographical Indications: A Study of Basmati Rice" by **P. Chelladurai and M. B. M. Ismail** (2020): This research focuses on Basmati rice as a case study on geographical indications in India. The main topic of discussion involves the legal mechanisms and the economic aspects of geographical indications in India. Market dynamics play a key part in this discussion where it navigates complex GI disputes regarding product originality and regional politics, the research aligns its objectives towards increasing the competitiveness amongst basmati rice sellers and also focuses on other products originating in a particular geographical topography and the legal mechanisms protecting such goods, indicating towards the need for a local law system that will help navigate these complex procedures and help minority indigenous communities in reaping economic rewards for their indigenous creations.

---

[1] Udapudi, S., & Sharma, R. S. (2018). Geographical Indications in India: A Legal Perspective
[2] Chelladurai, P., & Ismail, M. B. M. (2020). Intellectual Property Rights and Geographical Indications: A Study of Basmati Rice.

"Geographical Indications in India: Policy, Practice, and Challenges" by **Amol S. Bagade and Prasad Joshi** (2019): this study focuses on the in depth examination of the current legal mechanisms and policies governing geographical indications and the benefits that can be derived from them in order to improve the market dynamics for protected indigenous communities, special focus on rural economies is the key highlight of this book and it establishes a strong base for understanding the current economic status of these local communities, helping them to navigate through complex registration procedures and engage with stakeholders who can guarantee return on profits for these particular commodities. The authors have focused and emphasized on understanding the importance of the rich cultural heritage and diversity of this country and how it is the collective fundamental responsibility of the government and its people to protect its traditional knowledge and safeguard our ancient cultural integrity, improvements and reforms are mentioned in areas where policies needs to be reevaluated and be inclusive of both well reputed and minority indigenous communities. There is a significant disparity between commonly registered GI tags beneficiaries and other categories of geographical indications that are complex in nature in regards to their usage. The challenges that needs to be addressed are critically evaluated in this book and paves a way for future research work on safeguarding traditional knowledge and registration of geographical indications, and simultaneously promoting indigenous community rights[3]

[4]"Legal and Regulatory Framework of Geographical Indications in India" by **Debanshu Shekhar Mahanta and Swaroop K. Nanda** (2017): Geographical indications have emerged as a recent tool for the safeguarding of traditional knowledge however the current mechanisms governing geographical indications are questionable in the sense that the degree of protection offered by them is defensive in nature and is categorized as a negative right, whereby it does not offer direct recognition of ancient traditional knowledge but protects it from the claims of other parties. The Geographical Indications of Goods (Registration and Protection) Act,1999 has been critically analysed with two factors in mind, firstly the prevention of misappropriation and bio piracy and secondly; the promotion of sustainable growth among the indigenous communities of India. A common linkage between all the available literature on geographical indications is the need for a sui genres model law in order to cater to the states individually and tackle the problem of statewise disparity that has accounted for the loss of trade and commerce amongst many small local communities, revised plans on how stakeholders can be engaged and improvements in the field of Access and Benefit sharing is also one of the most key highlights of this plan, overall the book provides a comprehensive analysis of the legal scenario of geographical indications in the last one decade and paves a way for policy makers to implement better strategies to improve the lives of the indigenous communities of India.

---

[3] Bagade, A. S., & Joshi, P. (2019). Geographical Indications in India: Policy, Practice, and Challenges.

[4] Mahanta, D. S., & Nanda, S. K. (2017). Legal and Regulatory Framework of Geographical Indications in India.

"Geographical Indications in India: Opportunities and Challenges" by **Rakesh Jha and Ashutosh Kumar Singh** (2021): The authors in their book "Geographical Indications in India: Opportunities and Challenges have laid down some fundamental principles of rural economic growth, focusing on the nature of growth and how its is directly proportional to long term self sustainability within these communities. The book describes the need for sustainability as a bare necessity for these communities to thrive and regain their lost position in the society by exploring the true potential of their cultural systems and programs. The rural economies of India have been the backbone of this country's rich heritage and agricultural output.

Geographical Indications are a recent addition to the existing models of intellectual property law and the only eligible form of protection for collective rights, unlike patents, trademarks and copyright. Since these age-old practices have been passed down from one generation to the other mostly in an undocumented form, there are difficulties in preserving and protecting them in the long run, it is in this context that we need to shift our focus on formulating newer strategies for long term preservation of such ancient knowledge. Geographical indications have the potential to promote tourism and increase brand competitiveness along with improvements in the field of international trade, this book explores the various dimensions of using GI tags for regional growth of both its population and its cultural integrity, along with increased economic growth to aid long term sustainability.[5]

"Geographical Indications and Sustainable Development: Insights from Indian Experiences" by **S. K. Mohanty and K. S. Chauhan** (2018): The authors in their book have focused on two critical components which are Geographical Indications and their use for environmental conservation and community empowerment. Communities and geographical indications have developed a significant relationship over the past decade where registration of community specific goods and their maturity and popularity over time enables these communities to gain self determination and understand the dynamics of the product market. Self determination within these communities will help them to directly engage with stakeholders and sellers who can help sell these products to a wider population. Geographical indications also play an important part in the long term sustainability of biodiversity and environmental protection where traditional knowledge systems focus on development of ideas and products by means of interactions with its local environment. This is prevalent in the North-Eastern region of india where traditional medicine made using herbs and leaves of ancient plants have been in practice for the entirety of time, these practices are a result of environmental integration and recognition of natural elements which engineered the ideas to produce and preserve products that are readily available in the nature and can be helpful to the pharma industry who are inclined towards the usage of synthetic

[5] Jha, R., & Singh, A. K. (2021). Geographical Indications in India: Opportunities and Challenges.

medicinal distribution which not only pollutes the environment but also fails to offer a natural remedy for diseases which traditional medicine would have otherwise cured effectively.[6]

"Legal Issues in the Registration and Protection of Geographical Indications: A Case Study of Darjeeling Tea" by **A. K. Panda and S. K. Barik** (2019): The authors in their book "Legal Issues in the Registration and Protection of Geographical Indications: A Case Study of Darjeeling tea" have laid down the foundation for the requisites of acquiring GI tag for an area specific product, in this case the area of focus was the famous Darjeeling Tea which was the first product to receive the GI tag owing to its unique attributes, quality and reputation developed over time. Geographical Indications can be instrumental in identifying and protecting goods which have originated in a particular area where the climatic conditions and the surrounding environment contributes to the quality of the product, in the case of Darjeeling tea, it was studied that the tea leaves possessed a complex and unique combination of agro-climatic condition that has significantly contributed to its unique flavor and quality that millions of people across the world enjoy. However the main area of focus was to study whether the impact of this registration had any positive outcome on the development of the local community in Darjeeling, and it concluded that this was a labour intensive process and with the growing rate of deforestation, the local community could suffer in the process. The local communities need to be made aware of the advantages of Geographical Indications and their long term benefits.[7]

[8]**Rathod** (2023) in her journal " CHALLENGES POSING TO GEOGRAPHICAL INDICATIONS IN INDIA" aims to analyse the challenges posing to the current mechanisms governing the geographical indications under the Geographical Indications Act, 1999 and explores the disparities between higher registration numbers in selected states of India including Karnataka, Andhra pradesh and Uttar Pradesh which has the highest number of GI tags at present and other states where the numbers are sub optimal, the research paves a way for future policy makers to consider these recommendations and make necessary changes in accordance to the smooth functionality of these complex registration procedures.

[9]**N.S. Gopalakrishnan, Prabha S. Nair & Aravind K. Babu** in their working paper Exploring the Relationship between Geographical Indications and Traditional Knowledge: An Analysis of the Legal Tools for the Protection of Geographical Indications in Asia explains the loopholes that

---

[6] Mohanty, S. K., & Chauhan, K. S. (2018). Geographical Indications and Sustainable Development: Insights from Indian Experiences.
[7] Panda, A. K., & Barik, S. K. (2019). Legal Issues in the Registration and Protection of Geographical Indications: A Case Study of Darjeeling Tea.
[8] Shilpa, Rathod. Challenges posing to Geographical Indications in India.1.IPR journal of Maharashtra NLU, Nagpur. pp. 16-25.2023
[9] Gopalakrishnan, N.S. et al (2007) Exploring the Relationship between GIs and TK: An Analysis of the Legal Tools for the Protection of GIs in Asia, ICTSD Programme on Intellectual Property Rights and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

are associated with traditional knowledge protection through geographical indications in Asia by pointing out to the fact that even though GIs have the potential to safeguard TK, there are no significant provisions that mandate the mention of the special characteristics of the product that requires the attention of elements which will aid in long term product control. Significant changes need to be incorporated in order to truly unlock the potential of GI tags to actually benefit the original holders of the traditional knowledge systems that exists

[10]In the research article "Geographic Indications, Sustainability and Sustainable Development: A Bibliometric Analysis" published in 2024 by the **students of the Department of Production Engineering/UFRB, Federal University of Reconcavo of Bahia, Center for Science and Technology in Energy and Sustainability, Brazil,** it was highlighted that Geographical Indications share a direct relationship with sustainability and sustainable living, the study analyses the link between these two components as they overlap in a multidisciplinary concept covering a vast area of knowledge,The results showed the predominance of four lines of research on the topics of interest: a) local socioeconomic impacts; b) conservation of the environment and preservation of biodiversity; c) governance and effectiveness of legal systems to protect GIs; d) post analysis-GI. Furthermore, the research showed that the topic has evolved, but is still little discussed, especially on the Asian and African continent

[11]**S.P Chakraborty, 2021** In the article " A Primer to Traditional Knowledge protection in India: The Road Ahead" breaks down the components of indigenous community living and traditional knowledge protection into seven parts focusing on the role of indigenous communities in the preservation of the cultural integrity and biodiversity of India, followed by the challenges in bringing the concept of TK under the intellectual property umbrella, its misappropriation and misuse and the current legal framework governing TK and GI in India. The focus of the paper is to propose relevant policies for the improvement of the Access and Benefit sharing policies of traditional knowledge utilisation and ultimately position India as the leader of the Global South.

The United Nations Environment Program published a book titled "Cultural and Spiritual Values of Biodiversity" (1999) which was later edited and published in the United Kingdom. The focus of this book was to create a pathway to study cultural and spiritual aspects of the environment from various outlooks. The human interaction with nature is one of the key highlights of this book along with the importance of the protection of biodiversity. This study was influential for this research because sustainable practices counting the use of traditional knowledge is a different approach to deal with the threats against biodiversity.

---

[10] Silva Martins, L. O., de Oliveira, V. R. V., Lora, F. A., Fraga, I. D., Braga Saldanha, C., Silva, D. T., Alves Pereira, M. G., & Silva, M. S. (2024). Geographic Indications, Sustainability and Sustainable Development: A Bibliometric Analysis. *Journal of Scientometric Research*, *13*(3), 919–934. https://doi.org/10.5530/jscires.20041231

[11] Chakrabarty, S.P., Kaur, R. A Primer to Traditional Knowledge Protection in India: The Road Ahead. *Liverpool Law Rev* 42, 401–427 (2021). https://doi.org/10.1007/s10991-021-09281-4

[12] **Garcia, 2007** in his article begins with how pharmaceutical companies have been abusing traditional knowledge, the essence of this paper lies in mostly undocumented history of

Traditional knowledge which makes it vulnerable to bio-prospectors searching for patentable products. The terms traditional knowledge, bio-piracy, bio- prospecting and exploitation of traditional knowledge are defined along with the drawbacks of Mexican patent law. The article ends with a comparative study of the United States patent laws.

[13] **Shiv Sahai Singh, 2016** in his book has combined the papers pertaining to the critical aspects of intellectual property law, the author has combined chapters on the introduction to the world of intellectual property law, WTO and intellectual property rights. The main objective of the book was to emphasize on the international and domestic trade laws in the middle of growing globalisation and liberalization, although this book doesn't specifically emphasize on the protection of traditional knowledge, one of the chapters briefly describes the elementary idea of TK. The current protection mechanism for TK remains at threat unless it is resolved by the means of introduction of newer policies and abolition of misappropriation and misuse in the name of access and benefit sharing.

Jha, 2009 authored the book "Traditional Knowledge System in India" which discusses the literary, artistic and scientific works, songs, dances, medical treatments and practices, and other traditional practices. The elementary idea of his work was interdisciplinary and a comprehensive exploration of India's philosophical, scientific and cultural heritage. Despite the best efforts made in order to safeguard traditional knowledge, there has been no universally acceptable solution for the protection and encouragement of promotion of traditional knowledge in the long run.[14]

[15] **Gupta, 2005** takes an alternative approach to understand the question of intellectual property law and indigenous sentiments and self determination. He brings to life the question of indigenous knowledge considering the status of indigenous people who are the victims of social, cultural and economical exclusion, and an indifferent attitude towards indigenous women and children who suffer from this phenomenon. The International Labour organisation convention guarantees the protection of indigenous rights and the rights of indigenous communities to flourish under its program. The writer enlightens the difficulties faced by the indigenous communities due to long term economic instability faced on account of improper representation which ultimately is leading towards its erosion. It covers all aspects of human rights related issues and concentrates on all coupled international conventions and other laws. The second

---

[12] Javier Garcia, "Fighting Bio piracy: The Legislative Protection of Traditional Knowledge, Berkeley La Raza Law Journal" (Westlaw 2007).
[13] Shiv Sahai Singh, The Law of Intellectual Property Rights: Introductory, WTO, Patent Laws, Copyright Laws, 2016.
[14] Amit Jha, "Traditional Knowledge System in India" Atlantic Publishers and Distributors Pvt Ltd (1 January 2009).
[15] Aman Gupta, Human Rights Of Indigenous People 1 & 2 (Isha Books, ed, 2005).

volume of this book clarifies the national laws and policies for indigenous community protection and also discusses the role of international conventions, laws and programs to aid human rights problems, however no link between human rights and biopiracy was mentioned in this study which otherwise would have explored the possibility of linking the two components together.

[16]The article "Recognising Indigenous Peoples' and local community rights and agency in the post 2020 Biodiversity Agenda" published in the **AMBIO journal of environment and society,** it was mentioned that the convention on biological diversity is defining the goals that will shape the future policies for biodiversity and indigenous communities and its people stand at the forefront of it. The argument is supported by four key points, first indigenous people and local communities possess the knowledge that is essential for setting realistic biodiversity targets that will be effective and simultaneously improve local livelihoods, secondly the position of these indigenous communities is such that they sustain and manifest the vision of living in harmony with nature. Third, Indigenous peoples' and local communities' participation in biodiversity policy contributes to the recognition of human and Indigenous peoples' rights. And fourth, engagement in biodiversity policy is essential for Indigenous peoples and local communities to be able to exercise their recognized rights to territories and resources. This article does not shift its focus to safeguarding traditional knowledge and using geographical indications but instead focuses on the relationship between environment, biodiversity and man, helping us understand the values of environmental interaction and the benefits of sustainability that arise out of it.

[17]**Overwalle, 2005** in his study "Protecting and sharing biodiversity and TK: holder and user tools," notes that the definition of traditional knowledge as mentioned in WIPO involves the words tangible constituent (genetic resources) as well as the tangible one (knowledge). The study aimed to define the two most similarly associated but distinctive topics of traditional knowledge and biodiversity, in order to understand how these two components cater to the applicability to the broader intellectual property law framework. The study outlined the application protection modalities from the perspective of holders of traditional knowledge and biodiversity, further the study finds that patents are among the only tools in relation to intellectual property models which are useful for biodiversity protection. On the other hand the other forms of intellectual property such as trademarks, copyrights and geographical indications were useful at least to theory in safeguarding traditional knowledge. A repeated emphasis on the sui generis model law for local protection becomes important along with protection of databases and effective documentation. Access and Benefit sharing has played an important part in this discussion where reforms to the benefit sharing network stands important and the recognition of a few other instruments like code of conduct, regulations in the import and export business models, self enriching doctrines are important in order to establish an equity in the access and benefit sharing programs involving traditional knowledge and biodiversity protection.

---

[16] Reyes-García, V., Fernández-Llamazares, Á., Aumeeruddy-Thomas, Y. *et al.* Recognizing Indigenous peoples' and local communities' rights and agency in the post-2020 Biodiversity Agenda. *Ambio* 51, 84–92 (2022). https://doi.org/10.1007/s13280-021-01561-7

[17] Geertrui Van Overwalle, "Protecting and sharing biodiversity and traditional knowledge: Holder nad User Tools" Ecological Economics 53, pp.585-609 (2005)

The study not only focuses on targeted components useful for the protection of traditional knowledge but also explores the various possibilities of safeguarding biodiversity by means of patenting, whereas collective rights of indigenous communities are expected to be served by Geographical Indications.

[18]**Ragavan (2008)** in his work "New paradigms for protection of biodiversity" emphasized on the fact that developing countries can resort to a method which can help them achieve long term biodiversity goals and successfully get returns on the local biodiversity resources, apart from that, the author also raises concerns about the prospect of bioprospecting. He asserted that if the goal is to create a return for local resources, holders of genetic resources do not necessarily require IP as an essential tool to structure a return regime for genetic resources. Developing countries should work out innovative, alternative, useful tools that protect local resources. He further asserted that biodiversity protection in the wake of bio-prospecting raises many-sided issues that could affect several future generations. He added that a bio-prospecting agreement pays the community but ignores biodiversity preservation and thus fails the CBD goals. In conclusion, he noted that it is economically unfeasible for developed countries and the big pharmaceutical companies to demand low-cost access to biodiversity and respect for IPR from developing nations. Hence, respecting local rights could be the initiatory step in order to nurture an admiration for IPR. He quoted the example of Costa Rica, which promotes bio-prospecting for achieving the broader goal of sustainable development. In his opinion, there is a need for 21 developing nations to ensure that all such measures, namely, biodiversity conservation, sustainable development, and resource sharing, work in rounds with the trade objectives.

[19]**Tarunika and Tamilselvi (2018)**, in their research paper titled "TK and patent issues in India" argued that the TK of Indian products need to be provided a level of protection that safeguards such knowledge from any misappropriation by the other countries since there are several instances of such misappropriation witnessed in the past. The authors figured that traditional knowledge protection is absolutely necessary as it is believed to be a valuable asset that provides for the means of livelihood to these communities. Hence, the authors mostly concentrated on the means that can be made available for the protection of the traditional knowledge. The idea was that TK could be protected under different categories of intellectual property particularly copyright, patent and trade secrets. Another observation that was made is that in the cases of biopiracy and misappropriation, the documentation of traditional knowledge can be used to prevent such things from happening. Accordingly , sufficient attention must be given to documenting and digitizing such traditional knowledge details. The traditional knowledge library (TKDL) is the contribution in the said context. As a consequence, the author prescribed establishing TKDL where traditional knowledge of all indigenous people and products and

[18] Ragavan, Srividhya, New Paradigms for Protection of Biodiversity (January 18, 2011). Journal of Intellectual Property Rights, Vol. 13, No. 13, p. 514, 2008.
[19] J. Tarunika and J. Tamilselvi, "Traditional knowledge and Patent issues in India" 119 International journal for Applied Mathematics (2018)

associated ideas should be incorporated, and the same must be updated on a regular basis, however the incorporation of such an idea might seem effective to protect traditional knowledge, it necessarily does not guarantee any returns on profits made by selling these products which are manufactured using traditional indigenous knowledge, hence not giving an effective mechanism to tackle the problems of economic instability observed in these local indigenous communities.

[20]**Gavali and Sharma (2003)**, in their study titled "TK and biodiversity in Gujarat" highlighted briefly the extent of TK available in the State of Gujarat and the role that it has been performing in the State, pertaining to conservation of natural resources and biological diversity which is profoundly embedded in the traditions and cultures of the indigenous communities all throughout the country. Despite its rich indigenous heritage the authors noticed and highlighted the same traditional knowledge that has been safeguarded and protected for generations by conservation practices are now suffering from its own attrition. The main area of problem is the minimal amount of documentation that had taken place with regards to traditional knowledge protection, as mentioned earlier in one of the previous texts, it is now a common practice within indigenous communities to observe the migration of the younger population to towns and cities, as a result of this phenomenon caused by the globalization effect, lifestyle changes are becoming prevalent and is leading towards its erosion. Further, the advent of modern technology displaced such knowledge bases, considering them as primordial. There are very few cases of TK documentation in the State and are restricted only to ethnobotany. It is only through appropriate documentation that a country can protect its rights over any bio wealth. There are instances of few cases of TK being patented outside due to such non-documentation. Therefore, the authors suggest that necessary steps should be taken to document such knowledge under IPR rules to benefit future generations.

[21]The relevance of Traditional Knowledge systems for Ethnopharmacological research: theoretical and methodological contributions (2010) by **Garcia** defines Ethnopharmacology as being at the intersection of the medical, natural, and social sciences. Despite its interdisciplinary nature, most ethnopharmacological research has been based on the combination of the chemical, biological, and pharmacological sciences. Far less attention has been given to the social sciences, including anthropology and the study of traditional knowledge systems. This was one of the first of its kind research in understanding traditional indigenous medicinal knowledge through environmental interaction. The author firstly talks about the importance of traditional medicinal knowledge with regards to understanding environmental precautions and necessary steps that need to be taken when dealing with these plants, traditional knowledge helps understand the efficacy of the plant in the cultural context. Secondly research in this field can help us understand

[20] Gavali, Deepa J. and Diwakar Sharma. "Traditional knowledge and biodiversity conservation in Gujarat." (2004).

[21] Reyes-García, V. The relevance of traditional knowledge systems for ethnopharmacological research: theoretical and methodological contributions. *J Ethnobiology Ethnomedicine* 6, 32 (2010). https://doi.org/10.1186/1746-4269-6-32

the benefits of traditional medicine and how ethnopharmacological knowledge is distributed in a society, and who benefits from it. Third, research on traditional knowledge systems can enhance the study of the social relations that enable the generation, maintenance, spread, and devolution of cultural traits and innovations, including ethnopharmacological knowledge. The author has emphasized on the importance of safeguarding such cultural practices, as it can be rewarding for the society and the indigenous communities as a whole.

[22]**Sahai, 2003** in his work " The importance of indigenous knowledge" has highlighted the growing significance of traditional knowledge in modern plant breeding and achieving global food security through the well-established process of landraces bred by the farming communities over generations of various wild plant life and resources of the forest. The purpose of the study was to recommend suggestions and policy measures that could be adopted to safeguard traditional knowledge. Secondly the study focuses on the process of documentation at both national and international and regional levels which will incorporate the location of the biological resources, the reason being that historically traditional knowledge was undocumented which eventually lead to its misuse by means of biopiracy and misuse by private companies, in that regard it is necessary to understand that if such knowledge is adequately maintained, it would set out several purposes such as for raising claims of royalty for transfer of such knowledge by the communities concerned. One of the many highlights of Thai work was to recognize the long term benefits of documentation of traditional knowledge which otherwise would have been misused for years. However, the study suggests that this entire documentation process should be compiled as a National Bioresource Register. One can be given access to the said documentation upon payment of the prescribed fee and subject to the conditions to be fulfilled concerning the use of the information contained in the documentation.

[23]**Gibbson, 2005** work on community resources and resilience, taking into consideration Intellectual property rights which deals with all the attributes of community resources and resilience, intellectual property and interpretation of knowledge along with the other objects of protection. It reveals the ideas of community rights and the dilemma involved with the particular emphasis of traditional knowledge with regards to special intellectual property rights that are granted as collective rights, in the case of traditional knowledge protection it becomes increasingly difficult to identify and grant individual rights for the safeguarding and production of a commodity based on traditional knowledge and hence it is important to understand the relationship between community rights and safeguarding traditional knowledge.

---

[22] Suman Sahai, "Importance Of Indigenous Knowledge" Indian Journal of Traditional Knowledge" 2(1), 2003.

[23] Johanna Gibbson, Community Resources, Intellectual Property, International Trade and Protection of Traditional Knowledge (Ashgate, ed, 2005).

[24]Analysis of Prospective Geographical Indications of India (2005) by **S.K Soam** highlights the features of geographical indications and its registration procedure complications and the legal mechanisms protecting it from the Indian perspective. According to this study, up until 2005 only two products had received a GI tag in India and the focus of this article involved the registration procedures and analysis of those products on the basis of return of profits and product maturity. The export and import regulating goods marked as geographical indicators are significant to the economic prosperity arising in that particular geographical area on account of returns on investment and profits being divided on the basis of the access and the benefit program that ensures the smooth functionality of production and commercialization of indigenous products.

[25]**Gadgil, Berkes and Folke (1993)** in their publication "Indigenous knowledge for biodiversity conservation" has emphasized on the need for the conservation of indigenous knowledge as it has been historically linked to the protection of biodiversity and sustainability of these communities, indigenous self empowerment and indigenous self determination have been discussed as critical factors that would revive the lost position of these traditional groups. The blend of indigenous and modern knowledge can lead to long term economic sustainability by exploring the possibilities of blending traditional knowledge and modern marketing and retail mechanisms to maximise product output, the positives can be identified as environmental friendly products which are made under the supervision of experts who have traditionally relied on environmental interaction to produce such commodities. The paper provides a comprehensive analysis of the relationship between traditional indigenous knowledge and biodiversity.

[26] **Raza, Malik and Oriakhogba** in their publication " Two decades of the Geographical Indications of Goods (Registration and Protection) act, 1999: A review of 547 registered geographical indications published in the journal of intellectual property of rights explores and reviews the registration of the total number of GI registrations that had taken place in the last two decades using a quantitative approach. The total number of applications given since the commencement of the GI act, 1999 has converted to only half the percentage of the number of GIs that have been registered till date and this paper outlined over two decades and five chapters provides a comprehensive analysis of these registrations. The highlight of the paper lies in the systematic analysis of products registered from various states and union territories along with foreign registrations and reviewing their distribution status focusing on the number and category

---

[24] 8 J. World Intell. Prop. 679 (2005)
Analysis of Prospective Geographical Indications of India

[25] 1. Burnside WR, Pulver S, Fiorella KJ, Avolio ML, Alexander SM, eds. Madhav Gadgil, Fikret Berkes, and Carl Folke (1993). In: *Foundations of Socio-Environmental Research: Legacy Readings with Commentaries*. Cambridge University Press; 2022:506-511.

[26] Raza, Aqa and Malik, Dr. Kanika and Oriakhogba, Dr. Desmond, Two Decades of the Geographical Indications of Goods (Registration and Protection) Act, 1999: A Review of 547 Registered Geographical Indications, vol 29, Jipr, 526, 1, (2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5002038

of registrations that have taken place in the last two decades. The five outlined chapters include identification of the products which were due for registration and products which were already qualified under GI status and reviewing them to understand the working mechanism of the act and whether there are any possible reasons to point out the excessive number of pending applications which have been there for more than a decade. The paper also reviews the distribution of products categories with focus on which states are responsible for producing a certain number of products in a particular category like food products or handloom or agricultural products and assessing the reasons why the qualification was successful compared to products which were yet to be qualified for GI registration.

[27] **Bansal and Singh** in their publication "Blessing of Geography: Impact of Geographical Indications on Agricultural Exports in India" published in the journal of IIMB Management review focuses on the relationship between GI registrations and its effects on the agricultural exports from India spanned between the years 2004 to 2016 as agricultural products still remains one of the most exported categories of products till date, the identification procedure was to identify state wise distribution of agricultural product growth and its export numbers and how has it been affected post registration as GI qualified. The findings of the study have indicated a significant positive impact on geographical indications and also concluded that export sales of agricultural products are reportedly higher in states which have better institutional and infrastructure facilities compared to other states. The registration status of these products also play a significant role in determining the returns on profits where GI qualified products have indicated better returns whereas products which have not been registered have not seen comparatively similar profits. The paper also focuses on cropping patterns for various crops that are GI tagged across India and reviewing them at local levels in order to form a comparative study between them and unregistered crops across various states.

[28] **S. Malini** in her publication "An analysis of Geographical Indications in India and Tamil Nadu with special reference to Kanchipuram Silk sarees" published in the Quing international journal of commerce and management focuses on the rich cultural heritage of Tamil Nadu which has the recorded highest number of GIs which includes a wide category of products including traditional textile products, agriculture related products, and handicrafts which are represented by the production of Kanchipuram Silk which is also considered as the highest cultural identity of the state. The paper has been presented as an analysis of the individual case study of one product with focus on the associated economic and social output that is associated with its production

---

[27] Manu Bansal, Rahul Singh, Blessing of Geography: Impact of Geographical Indications on Agricultural Exports in India, vol 36, IIMB Management Review, 353, 1, (2024), https://www.sciencedirect.com/science/article/pii/S0970389624001393

[28] Malini.S, An analysis of Geographical Indications in India and Tamil Nadu with special reference to Kanchipuram Silk Sarees, vol 3, QIJCM, 330, 1, (2023), https://www.researchgate.net/publication/374492838_An_Analysis_of_Geographical_Indications_in_India_and_Tamil_Nadu_with_Special_Reference_to_Kanchipuram_Silk_Sarees

along with its associated challenges that have come in the form of lack of enforcement against infringement, a lack of institutional support and climatic challenges having an impact on the product quality. The theme of the paper is centered around the argument that geographical indications when implemented strategically and promoted at the same time, it can positively impact cultural heritage of the place of origin by regaining community support and participation which leads to better sustainability prospects for the local producers who otherwise have been facing challenges like low economic returns and minimal support from organisations in promoting their rights regarding their production, especially for states which are comparatively less equipped with natural resources or abundant support which are available to only a select few states with appropriate political backing.

[29] Authors **Sreenath K.P. and Anson C.J** in their article " Geographical Indications and Traditional Cultural Expressions: A legal comparative analysis of the GI laws of Indonesia and India" published in the journal of world intellectual property focuses on the relationship and the effect of GI registration on traditional cultural expressions (TCEs) based on case studies on products from select countries of Indonesia and India. The reason for the selection of these two countries is because of the presence of a rich cultural heritage which already exists and analyzing whether the effects of GI registrations can be seen on the existing traditional cultural expressions, promoting them. The core theme of the paper is centered around the concept of understanding community participation through preservation of traditional expressions which can be enhanced by registering these products which in return rewards these economies, the results of the paper are not positive as it elaborates on the limitations that are present within the current working government in protecting TCEs through GIs as the provisions do not contain any clauses to preserve traditional cultural expressions nor safeguards traditional knowledge of these communities. The article has been useful in broadening the discussion on how GIs cannot or if they can, then till what scope can offer protection to cultural identities and at the same time sheds light on the gaps existing in the current legal framework. The recommendations are given in the form of promoting inclusive IP framework models that uplifts indigenous cultural identities.

[30] **Gogoi** in his article "transnational geographical indications in India: Issues and Concerns of 'PISCO' published in the journal of intellectual property rights explores the concept of transnational geographical indications meaning the shared common land and territory between two regions from where the distinctive characteristics of the product have originated or seem to have developed, since the area of origin does not wholly belong to any of the locations but is present as a shared territory, disputes can arise in claiming the benefits of GI tagged goods originating from these places. The paper focuses on these issues and challenges that persist in

---

[29] Sreenath K.P & Anson C.J., Geographical Indications and Traditional Cultural Expressions: A Comparative legal analysis of the GI Laws of Indonesia and India and a case study analysis, 26 J. World Intell. Prop. 339 (2023), https://onlinelibrary.wiley.com/doi/10.1111/jwip.12274
[30] Jupi Gogoi, Transnational Geographical Indications in India: Issues and Concerns of 'PISCO', 29 J. Intell. Prop. Rts. 534, 1, (2024), https://or.niscpr.res.in/index.php/JIPR/article/view/7046

claiming the ownership of the GI and is based on the infamous PISCO conflict that had taken place between the two south american countries of Peru and Chile which had eventually reached the shores of India, giving way to finding a possible solution to this ongoing problems. The core focus of the paper is retained to addressing these issues in relation to the globalized market, it also sheds light on the possible solutions in determining product ownership with focus on assessment on the basis of recognition of manual and environmental factors which has contributed more to the development of the commodity. The author also suggests changes in the current governing framework of geographical indications in India and points out the issues like ineffective guidelines to prevent such conflicts which can occur at both national and international levels and how to mitigate them strategically in order to facilitate better trade and smoother registrations of GIs in India.

[31] Authors **Sangeeta Malladagudda and Manjusha R.S** in their journal publication " Twenty years of Geographical Indications in India: Progress, Problems and Policy Recommendations" have focused on the unfolding of the working mechanism of Geographical indications ever since its inception in 1999 in the form of the GI Act and evaluating the changing dynamics of its usage ever since. The article is outlined in the following chapters where the historical context of the use of GIs along with the objectives that were undertaken in its preliminary chapter. The possible protection of traditional knowledge and cultural preservation are some of the factors that have been highlighted by the authors as potential driving forces even though it has not been proven nor has been added as provisionary objectives. The second chapter dives into the limitations and also critically challenges the existing gaps that are present in the current regime of geographical indications along with a renewed focus on the post registration challenges that are faced by the GI holders in the form of marketing interest, control of quality of products and its associated enforcement. These challenges are further enhanced by a significant divide between urban and rural applicants and also in GI benefit distribution along with the lack of influence of institutions in providing assistance to these urban applicants, this institutional weakness is one of the many reasons why subsequent growth from GI registration is hindered and calls for a more coordinated relationship between the stakeholders and the producer communities. The article concludes by laying down policy recommendations in the form of establishment of regional GI registries and offering capacity building programs for traditional producers, ultimately balancing the strengths and weaknesses of GI registrations in India and how improvements can be made in that sector.

[32] In their publication " Legal Implications of Geographical Indications in India", authors **Varnekar and Chutia** have renewed their focus on the legal analysis of how geographical

---

[31] Sangeetha Malladagudda & Manjusha R.S., Twenty Years of Geographical Indications in India: Progress, Problems, and Policy Recommendations, 25 Archives Current Res. Int'l 365 (2025).

[32] Sunil Sudhakar Varnekar & Upankar Chutia, Legal Implications of Geographical Indications in India, 4 Int'l J.L., Just. & Juris. 140 (2024).

indications have historically functioned in context to the intellectual property regime of the country. The critical analysis of the GI (Registration and Protection) Act, 1999 is one of the key highlights of the paper where its alignment in relation to the TRIPS agreement has been explored highlighting the legal intricacies of the governance of GIs in India and how a relationship has been drawn between GI registrations and cultural protection of rural producers along with more opportunities provide to these communities. The gaps in the legal mechanism have also been highlighted in the paper along with severe lack of awareness among the consumers of the products and subsequent misuse of products in the foreign markets. Overall the paper examines the overall working mechanism and offers a legal angle by means of analysis through a policy oriented lens and outlines the necessary steps required to make the use of GIs more effective in the Indian market and include producers from all kinds of communities and overseeing any limitations that they would have to face.

1.6 RESEARCH GAP ANALYSIS:

Based on the existing literature that is available in the form of books, journals, articles regarding traditional knowledge, Geographical Indications and the rights of the indigenous communities of India, the researcher has identified a few gaps that need to be addressed. The primary research gap has been identified in the form of inadequate examination of the intersectionality of traditional knowledge and indigenous rights where both these components have been treated as separate entities without having explored the other possibilities of their primary or secondary intersectionality. Secondly, the limited analysis of the role of government policies and institutions with regards to governance and registration and the institutional outlook of geographical indications and whether they want to be recognized as a defensive right or not is not clear as per existing research on this topic.

The third and the most important gap that was identified during the review of the literature available was the lack of study to understand and evaluate the significant economic disparities between reputed and major indigenous community groups and other minority community groups with these majority groups at the receiving end of better economic facilities through more registrations conducted in these areas and the minority indigenous communities facing long term economic instability because of these differences. Although an empirical study would have been preferred to understand the impact of GI and TK on these communities, such is not possible due to time constraints. The researcher aims to address these gaps in the existing literature and provide a comprehensive analysis based on his study and analysis of the same.

1.7 THE RESEARCH PROBLEM:

Traditional knowledge stands at the forefront of our country's rich and diverse cultural heritage and has become synonymous with the indigenous communities of India, however malpractices and misuse of these knowledge systems are leading to its speedy erosion. Although the

The government of India has undertaken various national and international policies with regards to the protection of traditional knowledge, the existing legal and policy frameworks governing its protection are inadequate and have ultimately resulted in the exploitation of the indigenous communities and the loss of their cultural heritage. The use of geographical indications as a tool to safeguard traditional knowledge is uncertain and requires more time to reach a reasonable conclusion. Based on the existing literature there is a need for study to understand the core relationship between traditional knowledge, geographical indications and indigenous community rights. The research aims to address the following problems in accordance with both traditional knowledge protection and GI registration; Traditional knowledge is vulnerable to misappropriation and has been reduced to a revenue generating mechanism by private companies, leading to its early erosion. This research aims to find significant gaps in the existing legal framework and policies made by these institutions and propose recommendations for future use. Limited awareness of geographical indication benefits among indigenous communities is prevalent along with the inadequate capacity to navigate complex registration procedures. There exists a significant disparity between minority and majority indigenous communities with minority communities not receiving adequate institutional support. Geographical indications are associated with commercial output, however if these are not used effectively then it will lead to long term unstable economic sustainability amongst these communities. Lastly, the problem lies in the inadequate attention given to the indigenous communities of India which accounts for more than ten percent of its population. Traditional knowledge has been the backbone of this country and this research will aim to give a voice to all the indigenous communities of India, the rightful owners of this ancient heritage.

1.8 JUSTIFICATION FOR THE STUDY:

Indigenous self-empowerment remains the critical nexus of this research and indicates the need for the promotion and protection of rights of indigenous communities spread across the country. Traditional knowledge has been used as a survival mechanism by these local communities for generations and they have done only as much as serving as a bare minimum resort to support their minimum expenses and lifestyle, however traditional knowledge has to offer much more than just providing minimal support to these traditional groups, it has the potential to revitalize the unstable economic sustainability that these communities face, it is often observed that large scale migration amongst indigenous adults take place whereas the elders of the family are responsible for the protection of generational TK, this is directly proportional to the fact that these communities are now considered to be outdated since there is an absence of a collective voice which will help rejuvenate the lost reputation of these groups. The research on safeguarding traditional knowledge through geographical indications is vital because we have been able to establish a small correlation between the two, since traditional knowledge is mostly undocumented and passed down from one generation to the other orally, there was a need to formally recognize this as a collective right, solely because of the fact that granting individual

rights for protected community traditional knowledge can become very challenging in the legal aspect.

The existing literature has time and again emphasized on the fact that the institutional framework regarding policy making and the legal mechanisms protecting traditional knowledge is not adequate and hardly provides any economic benefits to the rightful beneficiaries. Geographical indications on the other hand recognizes collective rights granted for products originating in a particular topography and can be studied better to explore the degree of its full proof efficiency. There exists a significant disparity between GIs originating from a prominent and reputed indigenous community and other unexplored minority indigenous communities who are also advocating for their rights. Since the focus of this research is limited to the scope of emphasizing the rights of these communities, it also helps us to understand the various other possibilities that can help these communities grow and attain self-empowerment. Thorough research on this topic will help us gain significant policy and practical implications in the future, in addition to the already existing policies and mechanisms. Promotion of indigenous rights by safeguarding their traditional knowledge will help these communities regain a place in the society and eventually attain long term sustainability and economic growth.

This study will empower these communities to take control of their cultural heritage and ancient knowledge systems and ultimately be recognized as self-determinant. It will also examine and analyze the true nature of geographical indications and whether it is eligible to safeguard traditional knowledge to its fullest potential, in doing so the researcher aims to contribute to the preservation of India's rich cultural heritage and diversity.

1.9 HYPOTHESIS:

The research is based on the following hypothesis

(H1): Geographical Indications is an important tool for the protection of traditional knowledge and sustainability of the various indigenous communities of India, but only if there is an equity in the benefit sharing among the community members and the registration process being less complicated, transparent and have provisions to include traditional knowledge in its description

(H2): In India, the majority indigenous communities are deriving greater economic benefits from GI registration while the minority indigenous communities are facing challenges regarding the same issues.

(H3): The current legal framework and policies governing traditional knowledge and geographical indications is not adequate as it continues to offer a defensive mode of protection as part of national and international compliance models, the need for a sui generis law is imminent to increase community participation.

(H4): The current state of Geographical Indication protection in India has the potential to play a vital role in preserving the cultural identity and traditional practices of indigenous communities, contributing to their resilience against cultural erosion in the globalized world, but fails to do so effectively.

1.10 RESEARCH OBJECTIVES:

1. To analyze the potential of Geographical Indications in promoting indigenous community rights over their traditional knowledge.

2. To identify challenges that indigenous communities face regarding traditional knowledge protection and the possible opportunities in regard to the promotion of their rights.

3. To investigate the existing laws and policy frameworks regarding traditional knowledge and geographical indications and recommend changes for economic, social and cultural growth.

1.11 RESEARCH QUESTIONS:

1. How can geographical indications be used to safeguard traditional knowledge and simultaneously promote the rights of indigenous communities of India?

2. What are the challenges and opportunities for indigenous communities in India to access and benefit from geographical indications and how can these challenges be addressed?

3. How do existing legal mechanisms and institutional policy frameworks governing geographical indications and traditional knowledge in India impact indigenous rights?

1.12 METHODOLOGY:

The current research primarily relies on conventions, legislations, and national and international case studies. Thus, the approach adopted for this research is substantially doctrinal, where the researcher used doctrinal techniques to gather data from literary materials such as books, reports and research articles. After that, he underwent a legislative content analysis of the existing intellectual property regime to evaluate the efficiency of the current national mechanism. For an in-depth investigation into the existing Indian laws, the researcher adopted investigative, evaluative and analytical approaches. The systematic analysis helped him critically ascertain the efficacy of the existing system, as also understand the possibility of a sui generis alternative that can be uniquely designed and anchored to suit the specific needs of the indigenous communities. Discerning the loopholes in the existing Indian Intellectual property regime helped the researcher indicate the scope of future study.

1.12.1 THE SOURCES RELIED UPON FOR THE RESEARCH:

Primary Sources include Statutes/Enactments, Judicial judgements (Reporters on Judicial Decisions), International Conventions, and other authoritative legal sources. Both print and electronic sources, such as legal databases such as Manu Patra, Sodha Ganga, Westlaw, Springer etc, were used in this research. Secondary sources consist of Textbooks, Authoritative Works, Magazine Articles, Histories, Criticisms, Commentaries, Encyclopaedias, Journals, Newspapers (Editorials and articles), and other Publications.

1.13 LIMITATIONS OF THIS RESEARCH:

Absence of empirical data to back the theoretical claims, even though the researcher has cited data from secondary data sources. An empirical study could not be conducted due to the time constraints and unavailability of resources.

The research is primarily based on an analytical study of the existing theories and doctrines. No interviews either with these traditional indigenous communities or with the Traditional Knowledge Digital Library could be conducted in the course of the study.

1.14 CHAPTERIZATION SCHEME/FRAMEWORK OF STUDY:

CHAPTER 1: INTRODUCTION

The introductory chapter provides an insight into the concept of Traditional Knowledge, Geographical Indications and the issue of indigenous community rights, describing the basic fundamental notions and the historical backdrop of all three of them. It directly approaches the research problem that the study deals with, it also describes the evolution of TK, GI and Indigenous communities and their rights. The aims, objectives and methodology used to conduct this research is also mentioned in this chapter along with the justification for the study and its limitations in time. The chapter in order to establish a theoretical understanding of the various components of TK and GI, elucidates an exhaustive literature review along with the gaps found while reviewing it. The literature review helps us to understand various components of traditional knowledge documentation, geographical indications and indigenous rights.

CHAPTER 2: MEANING, CONCEPT AND ISSUE OF TRADITIONAL KNOWLEDGE, GEOGRAPHICAL INDICATIONS AND INDIGENOUS COMMUNITY RIGHTS: A COMPREHENSIVE STUDY

The second chapter of this research helps us to have a better understanding of TK, GI and indigenous communities of India by means of a systematic analysis of their definitions, concepts, evolution and existing legal issues. The main focus of this chapter is to establish an inter relationship between the three main components of this research and understanding it as a whole.

The overview of the ancient traditional knowledge systems and its contribution in time to these communities will help us justify the need for this research, traditional knowledge and its contribution to sustainable development and the evolution of the same will remain a critical aspect of this chapter. It will be followed by the introduction to Geographical Indications and its development over time, a comparison will be drawn between GIs and the other forms of intellectual property in order to understand its efficacy in providing long term economic sustainability. The relationship between traditional knowledge and geographical indications will be highlighted in this chapter as it is important to understand whether the latter can be used as a long-term viable tool to safeguard traditional knowledge and promote indigenous rights. The concluding part of this study will shed light on select indigenous communities of India and understand their development over the last decade, their contributions to the society and the legal issues that have hindered their economic prospects in the society, especially amongst the minority indigenous communities. Overall, this chapter aims to create a fundamental relationship between the three components by individually analysing them.

CHAPTER 3: THE INTERNATIONAL PERSPECTIVE

The third chapter of this research aims to give us the international perspective on Traditional Knowledge, Geographical Indications and select indigenous communities and effectively lays down a platform for comparative analysis with the Indian policy frameworks and current legal mechanisms governing TK, GI and Indigenous rights. A review of the existing international conventions, policies, frameworks and best practices will serve as the core of this chapter along with its historical development in time. The chapter begins with discussions on the key international agreements and frameworks related to traditional knowledge, geographical indications and indigenous rights focusing on landmark conventions like the Berne convention, the convention on Biological Diversity (CBD), World Intellectual Property Organization (WIPO) agreements and treaties, followed by important protocols like the Nagoya protocol access and benefit model, the Bonn guidelines, Universal Declaration of human rights program and the Rio declaration on Environment and Development. Other notable agreements include the WTO (World Trade Organisation) agreements, including the TRIPS agreement and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). After a systematic analysis of existing policies, the chapter examines the best international practices for traditional knowledge protection and need for geographical indications, the core focus will remain on identifying community-based approaches to safeguard traditional knowledge, improvement in Access and benefit mechanisms and promotion of indigenous rights worldwide. The chapter will conclude by reflecting on the existing challenges that exist and the opportunities that may arise as a result of better policies and strategies including capacity building, information sharing, joint research and development initiatives in the field of TK, GI and indigenous rights.

CHAPTER 4: THE NATIONAL PERSPECTIVE

The fourth chapter of this research aims to give us the national or the Indian perspective on Traditional Knowledge, Geographical Indications and select indigenous communities. The core of this study will consist of important case studies pertaining to safeguarding traditional knowledge, geographical indications and indigenous rights. A thorough review of the national conventions, policy frameworks and existing legal mechanisms will be conducted with special focus on the analysis of the Geographical Indications of goods (Registration and Protection Act) 1999, tracing its historical development over time and proposing new strategies upon examination of the same along with its strengths and limitations in safeguarding traditional knowledge systems. Policy initiatives will be proposed in accordance with the assessment of the National Biodiversity Authority and the Traditional Knowledge Digital library which is considered to be one of the pioneer steps in the development and promotion of traditional knowledge. Geographical Indications registration mechanism and the effectiveness of its registration procedures amongst indigenous communities will be evaluated along with the rights and obligations. It will be followed by an in-depth analysis of selected GI protected products like the Basmati rice case and the Darjeeling tea case and a comparison will be drawn between these communities and other minority indigenous communities who have failed to navigate through the extensive process of GI registration for goods originating in their geographical topography, thus paving a way to safeguard traditional knowledge effectively through geographical indications and providing long term economic sustainability to these communities. The challenges and the opportunities for these communities will be a significant topic of discussion within this chapter, focusing on the implementation of newer policies that might offer an economically beneficial prospect to these communities and promote their rights in the society. The chapter will conclude with the summary of the key findings in context to the national perspective of traditional knowledge protection and reflecting on the importance of understanding its long term economic, social and cultural benefits.

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

The concluding chapter of this research discusses its significant outcomes and tries to establish an overall idea of the current status of traditional knowledge systems, geographical indications and indigenous community rights. The future scope of study in regards to the research will be broadly divided into two segments consisting of general and specific suggestions made in accordance to the current status of these components, the area of focus will be based in India irrespective of the comparative analysis with select countries across the world. Recommendations will be made to tackle the various kinds of challenges that the indigenous communities of India face regarding TK protection and GI registration, simultaneously giving them a platform to raise their concerns and reestablish their position in the society, it will aim to not only improve the current economic status of these communities but also pave a way forward for our nation to help these communities grow and flourish in the long run.

CHAPTER 2: TRADITIONAL KNOWLEDGE, GEOGRAPHICAL INDICATIONS AND INDIGENOUS RIGHTS: A COMPREHENSIVE STUDY

2.1 TRADITIONAL KNOWLEDGE: MEANING AND OVERVIEW:

Traditional Knowledge (TK) does not have a general definition as of now, however it is best described as local knowledge or traditional knowledge systems embedded in the cultural traditions of regional, local or indigenous communities,[33] that are passed down from one generation to the other in an undocumented or documented form. The definition of traditional knowledge broadly includes traditional medicinal knowledge, indigenous folk knowledge, and other areas of interests like subsistence, midwifery, ethnobotany, celestial navigation, craft skills, climate and others. The characteristics that set traditional knowledge apart include empirical observations, human interactions with the environment and accumulation, storage and passing down of information orally to the next generation.[34]

Traditional Cultural Expressions (TCE) are included in the definitions of Indigenous Knowledge given by the World Intellectual Property Organization (WIPO) and the United Nations (UN). The various forms in which these cultural expressions have existed include ancient cultural practices, storytelling, local folklore, traditions, laws, mythology, designs and ancient architecture. The general characteristics of traditional knowledge defines it as an ancient body of knowledge, traditional practices and cultural representations preserved and developed over time by people who are believed to have shared a historically interactive relationship with nature and the environment. As a result of these interactions, a cultural complex was created which included a sophisticated set of meanings and interpretations of such knowledge systems, it also broadly included the concepts of language, resource-practices, spiritual practices and object classifications.

A correlation between spiritual identities and know-how practices is what TK generally indicates at, and the rural communities of India have been dependent on these practices for generations, and as a result have massively impacted TK over the years. However with the advent of time, modern technology has become the solution to the dynamic nature of changing cultural practices and when amalgamated with TK, it is available in the form of public knowledge.

---

[33] Ann Marie Sullivan, Cultural Heritage & New Media: A Future for the Past, 15 J. MARSHALL REV. INTELL. PROP. L. 604 (2016).

[34] Cristina I. Apetrei, Guido Caniglia, Henrik von Wehrden, Daniel J. Lang, Just another buzzword? A systematic literature review of knowledge-related concepts in sustainability science, Global Environmental Change, Volume 68, 2021.

2.2 CONCEPTUAL STUDY OF TRADITIONAL KNOWLEDGE:

The concept of TK as discussed earlier is interrelated to the concept of cultural expressions of different communities, where it is noticed that distinctive TK separates one community from the other because there is a long standing tradition of understanding that it is generated on the basis of personal interests and deeper spiritual meanings and different communities projecting different kinds of interest over time. The usage of this TK can vary from time to time depending upon the need of the community at that time, survival was the primary instinct and the focus later shifted towards development using TK.

TK or local knowledge can be separated from the concept of modern knowledge based on the length of the time they have existed in the community, however local or indigenous communities view traditional knowledge as holistic and their definition cannot exclude or be separated from the resources of the land they acquire, meaning that these communities have resorted to customary laws which have been observed for decades and have helped them to sustain themselves and their communities, this excludes the understanding of a clear concept of private ownership, although many of these communities resort to these custom laws to get a better meaning of "knowledge" and "possession."[35]

From the above explanation, it is clear that TK has many conceptual expressions including indigenous knowledge and local traditional knowledge. Local members of a community, using certain techniques or methods engineered by indigenous expressions are used for the collective benefit of the particular community, and used within the gambit of such traditional knowledge. Natural interactions with local flora and fauna and backed by community knowledge, these groups found a way to generate such TK over generations and these are mostly backed by resources which they have obtained through these natural interactions. It takes generations for TK to develop and once it is done, one product or more than one product is developed over time using the same TK and most importantly, developed using common knowledge within the other community members. A socio economic balance is observed in these societies who sustain their livelihoods using these practices.[36]

Under article 8(j) of the Convention on Biological Diversity, 1992, traditional knowledge has been defined as "knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity."

---

[35] Traditional knowledge, https://en.wikipedia.org/w/index.php?title=Traditional_knowledge&oldid=1260414800

[36] Ghosh, Jayanta and Sinha, Vijoy Kumar, Traditional Knowledge and Traditional Cultural Expression amongst the PVTGs of West Bengal (August 21, 2023). Centre for Regulatory Studies, Governance and Public Policy The West Bengal National University of Juridical Science | Project Report 2021-2022.

Traditional knowledge usually is the representation of the community's culture and can be differentiated on the same basis, it is a system that is embedded in the regional traditions and the people of the community and is a broad spectrum which includes the concepts of the other forms and sub -categories of traditional knowledge.

2.3 ISSUES REGARDING TRADITIONAL KNOWLEDGE:

The issues regarding traditional knowledge which have existed ever since its incorporation as a mode of intellectual property, can be classified into general and specific issues. The general issues regarding TK have been classified in the following order:

1. Non-recognition as an IPR: Traditional knowledge has existed in an undocumented form for generations and has been passed down orally without any records, as a result it is often not recognized as a form of intellectual property, which makes it vulnerable to misappropriation.

2. Biopiracy: it refers to the unauthorized usage of traditional knowledge by other parties apart from the original holders of TK, for commercial gains and profits. It includes the disregard of the access and benefit model designed to distribute economic returns on commercial gains obtained from the sale of products made using traditional knowledge or traditional indigenous knowledge.

3. Wrongful patenting: the lack of awareness amongst local communities regarding the concept of patenting products have led to its misuse by external parties who apply for patents on products that are not created by them and in return do not adequately compensate these communities, leading to severe exploitation and misuse.

4. Lack of access and inequity in benefit sharing: access and benefit models refer to a systematic procedure of using protected knowledge to manufacture goods and selling them for commercial profits, and returning a certain amount to the original source of this knowledge as part of benefit sharing, helping both the parties to achieve certain goals by mutually helping each other. However indigenous communities often lack access to their protected traditional knowledge and the benefits are not equitably shared among them and the external parties.

5. Climate change: There is a need to adapt to a climate-resistant traditional knowledge system within local indigenous communities in order to develop a resistance against the erosion of traditional knowledge on account of climate change which has a profound effect on these systems. Traditional knowledge has been historically linked with environmental interactions and a disproportion has been observed in the impact of climate change on indigenous communities as compared to other non indigenous communities. These changes have led the local communities to adapt to changing environmental conditions and hence resulted in a loss of traditional knowledge, however it has also resulted in the positive adaptation and an increase in self determination within these communities and its people.

The specific issues regarding traditional knowledge have been discussed as follows:

1. The need for a sui generis model law to safeguard traditional knowledge has been advocated by policy makers in order to understand and determine what is the knowledge that is being protected and who should be its beneficiary, by doing so, these communities attain self determination and a renewed sense of identity in the society by retaining the core knowledge within the community and prevent it from being misappropriated by other parties. Upon the establishment of such a model, it is important to share these objectives and policies to international agreements which bind them in international protection. The issue of non recognition of the efforts of these communities can be tackled by drawing these objectives and amalgamating them into international agreements so that a relatively stronger response management mechanism can be formulated to tackle the problem of misuse by external parties. The least that the involvement of international obligations to national or domestic laws could provide is to ensure the necessary compensation that these communities deserve rightfully.[37]

2. The issue of commercialization and commodification is prevalent in society and is one of the main reasons for the rapid erosion of traditional knowledge. Commodification of TK refers to the treating of such knowledge as commodities to which a certain monetary value has been assigned, instead of recognizing these knowledge systems as intellectual property. Commercialization on the other hand refers to exploitation of traditional knowledge for profits, without necessarily compensating the true owners of this knowledge. Apart from wrongful patenting and trademarking, the issues of wrongful TK licensing and selling is also pertinent in the modern era where traditional information is leaked or hacked to produce goods, the profits generated from which will not be shared with these communities, thus leading to economic exploitation and harassment. The impacts of rapid commercialization and commodification can be severe including permanent non recognition of traditional indigenous communities in the society resulting in the loss of the control within these groups. Cultural insensitivity is another factor that can be caused by the rapid depletion of these traditional identities and can have far reaching impacts on the society in general considering the fact that indigenous identities have been the backbone of these societies for generations.

3. Apart from these specific issues, there is a list of problems that are historically linked with safeguarding traditional knowledge and it includes lack of interactions with uncontacted people, discrimination in awarding indigenous titles before the 21st century, civilizing missions, co governance between indigenous communities and the government (New Zealand), discovery doctrine or doctrine in discoveries, lack of indigenism, and settler colonialism. These factors have historically impaired the safeguarding of TK and need an in-depth analysis.

---

[37] *By Dr. Marisella Ouma, Intellectual Property Consultant, Kenya, this article is based on the keynote address by Dr. Ouma at the WIPO Seminar on Intellectual Property and Traditional Knowledge in Geneva, Switzerland, in November 2016.*

2.4 GEOGRAPHICAL INDICATIONS: MEANING AND OVERVIEW:

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.[38]

Geographical indications were recognized for the first time in Europe at the beginning of the 20th century, however practices relating to usage of the passing off law were prevalent in the 19th century. One of the main characteristics that sets geographical indications apart from the other forms of intellectual property is that GIs are generally applied to traditional products or products developed by local or indigenous communities. As the same suggests a geographical indicator is directly equivalent to product making within a particular group which exists in a particular demography, the attributes of that region helps develop an unique component in these products which otherwise would not have been possible considering the product was produced and developed in another geographical location. Hence it is a common occurrence to link the originality of these products to rural or marginal areas where indigenous population is prevalent, it is possible that different products can be generated using the same traditional knowledge which another indigenous community living in a different geographical location have used, however these markers help specify the region from where this product was devised as an idea and developed over time using traditional knowledge, possibly benefiting that particular area in achieving a stable livelihood and attain economic stability.

Geographical indications serve several purposes including consumer protection, protection of the producer and economic growth. Consumer protection means GIs help consumers identify region-specific goods and develop a sense of trust regarding authenticity and reputation of the product. The benefits of such protection include associated goodwill which guarantees the repurchase of region specific goods owing to its special characteristics and place of origin. Producers of the product are also guaranteed protection by geographical indications in a way where the markets which often fall prey to unauthorised use of goods and regional discrimination are tactfully maneuvered in a way where the original creators get rewards by standardized marketing options which become available to them once the GI tag is placed on that specific product.

Geographical indications are used to identify a wide range of products including exotic food and beverages like wines, cheeses, and other speciality foods, handicrafts, traditional crafts, textiles and pottery. Keeping in mind that GIs are mostly linked to traditional indigenous communities,

[38] https://www.wipo.int/en/web/geographical-indications

there is an abundance of products originating from these regions, however significant disparities have also been noticed amongst the majority and minority indigenous groups of our county.

2.5 CONCEPTUAL STUDY OF GEOGRAPHICAL INDICATIONS:

Geographical indications are not created, but it already is embedded in nature due to the existence of human and natural factors, however it requires a tag to its name in order to protect itself from unauthorised use by external parties. The concept of geographical indications coexist in the society along with the social recognition factor; meaning that for a geographical indication, social recognition of it was already existing in the society even without the onset of the idea to protect it from the misuse of others. There are certain factors and attributes which defines the concept of geographical indications, they are as follows:

1. The concept of GI is null without absolute legal protection, which it provides to its beneficiaries under various national and international laws. Protection of geographical indications are closely monitored and controlled since it is essential to protect the identity, quality and the reputation of the goods that are associated with specific geographical locations. Geographical indications are considered as legal protection tools and currently offer a defensive mode of protection which has sparked a lot of debate over its nature and subjective uses.

2. The concept of functionality regarding geographical indications helps us to understand its future scope as an instrument of intellectual property right, its use as a certification that a product possesses certain qualities is made according to traditional methods and hence enjoys a good reputation due to its geographic location, however this has also become a recurring issue regarding geographical indications where there is a difference noticed in the number of tags originating from a particular location and the category of product tags that are generating from one or more than one specific locations.

3. The fundamental concept of geographical indications are linked to certain factors which have proven to be beneficial to regional economies and local producers, these factors are identified as:

1. The preservation of geographical indications are considered to be indefinite in time as long as the traditional knowledge source does not become generic. These traditional knowledge systems are preserved and maintained in order to avoid being available to the general public without adequate compensation or shared benefits to the owners. Market strategies are devised accordingly and product advancements are made to customers of these traditional goods.

2. The idea of collective rights is critical to understanding the concept of geographical indications; these rights are not given to individual persons or producers but instead recognised as a collective right of all the producers who belong to that particular geographic location, especially indigenous communities who have been the backbone of the economy and rightfully deserve these benefits.

3. Recognition over generation: unlike the other forms of IPR, GIs are recognised and granted, rather than being granted rights at the time of its generation.

These factors collectively help us to understand the concept of Geographical Indications.

2.6 ISSUES RELATING TO GEOGRAPHICAL INDICATIONS:

Geographical Indications are considered to be an important tool for protection, however there are some pertaining issues associated with them, these issues have been classified into generic and specific issues, the generic issues regarding geographical indications are as follows:

1. Overlapping with other intellectual property rights like trademarks and patents. Geographical indications and trademarks both offer a unique sign to a product however there are significant differences between the two of them, the former is often misrepresented as trademark leading to disputes and ineffective protection guarantee to goods originating from a specific region.

2. Issues regarding the scope of protection, although geographical indications have become prevalent universally and help to identify and secure products from various locations around the world, offering a unique protection, the scope of its functionality has been under the radar due to the lack of clarity as an emerging IPR along with a complicated registration procedure, which hinders the opportunities for minority communities who are not familiar with such technicalities.

3. The relationship between GIs and international trade is marred with disputes arising from market access for GI protected goods across the world, compliance issues with several trade agreements and issues regarding bilateral and multilateral agreements, where a lack of international recognition is prevalent across several countries which do not accept the recognition of certain GIs, causing problems during the export procedure.

4. Global counterfeiting is on the rise and poses a significant threat to existing geographical indications, by mimicking the names and the characteristics of original GIs, leading to a confusion regarding assessing the nature of the location of production and the reputation and genuineness of certain products developing in these specific locations.

5. Lack of effective marketing and international brand reputation poses a threat to many local and domestic GI goods. Although products like the Darjeeling tea and Basmati rice enjoy an universal reputation, it is not the same for other GIs having the same quality and characteristics, due to a lack of effective branding techniques and marketing strategies to promote these goods to the international market which truly unlocks their true potential.

Apart from these generic issues, geographical indications face region specific issues which hinders their growth and functionality in that area, below mentioned are the list of issues associated with the protection and registration of geographical indications in india:

1. Disparity among different states in registering GIs and disparity among the category of GIs registered: Almost all the indian states and union territories have registered their products as GIs, however there is a significant disparity amongst these states with some of them having registered multiple GIs and enjoys a unique economic advantage over the other states which do not match the number of registrations due to compliance with the complicated registration procedures. It has been observed that there exists a significant disparity among the categories of GIs that are registered in the different states, with agricultural and handicraft goods occupying more GI tags than any other category of goods in the market, this needs to be tackled by motivating producers to engage in revised production and marketing strategies which will attract more stakeholders.[39]

2. Economical and technical challenges in the form of inadequate promotional activities and funding issues have directly hindered the sustainability factor associated with GIs, developing countries like India which is the home to a collection of indigenous products have found it difficult to market these goods in the global market due to financial and other technical constraints, the underlying problem is the monetary interests of the stakeholders who take away the majority profits from sales and leave the original producer with very little to support and sustain their lives. These challenges narrow the scope of functionality of geographical indications in promoting indigenous knowledge and products due to a lack of motivation in these communities to keep providing without getting adequate recognition or compensation.

3. Social challenges prevalent in Indian society have also hindered the scope of geographical indications. Although with the advent of the GI Act 1999, there has been a considerable increase in the number of registrations across various states, it is also observed that a notable 1044 GI applications are still pending in the registry office, some of these GI applications have either been withdrawn, pending, refused or have been abandoned. It is alarming in the sense that a lot of indigenous and non indigenous artisans and producers lack the motivation to produce and promote more commodities as they feel that their products will be undermined in the global market, only if they are able to navigate through the complicated registration procedure which sees a lot of potential registrants opting out due to its complex mechanisms and delayed results.

4. Geographic challenges were bound to be associated with GIs as the definition of GIs specifically mentions the correlation between the authenticity of the product and the area of origin. A singular product can be manufactured and developed in multiple locations, posing the question of regional originality of that product, these types of issues are commonly associated with agricultural and food products which also happen to be the highest category of registered GIs in India as of now. The singular location of GI and patent registry offices also creates a problem for producers to appear from one location to other to attend hearings or verdicts, this is due to the lack of infrastructural development in the GI registration and hearing departments.

[39] Shilpa, Rathod. Challenges posing to Geographical Indications in India.1.IPR journal of Maharashtra NLU, Nagpur. pp. 16-25.2023

Improvements can be made in this sector by addressing these specific areas of problems regarding geographical indications.

2.7 GEOGRAPHICAL INDICATIONS, TRADEMARKS AND PATENTS: A GENERAL COMPARISON:

A general comparison has been drawn between Geographical indications, trademarks and patents in order to have a better understanding of the concept of GIs:

1. Geographical indications:

- Differentiating products from others based on specific geographic locations and certifying a specific geographic origin, a geographical indicator must be available for all the products originating from that particular location.

- the producers of the goods in that specific region become beneficiaries once they attain the required quality standards.

- The main purpose is to protect the authenticity and the reputation of the commodity linked to that geographical area and further prevention of unauthorized use.

2. Trademarks:

- A trademark is a sign that an individual trader or company uses to distinguish its own goods or services from the goods or services of its competitors; it arises from that man's creative genius.

- The beneficiary is the trademark owner, it can be an individual ownership or a company ownership.

- The main purpose is to protect the identity of the brand which is the creative genius of the owner of the trademark, by doing so it prevents itself from duplicated branding or trademarking from other contemporaries who intend to misuse it for monetary gains.

- In the case of a trademark, social recognition must or must not already be there before the idea and need for its protection arise

3. Patents:

- An exclusive legal right associating an inventor with his/her invention/creation/add to existing invention is known as a patent. It effectively prevents others from using, selling and making profits out of it and has some notable characteristics including novelty, non-obviousness, utility and new inventive methods.

- Protection is time bound and territorial, offers incentive in form of investment for research.

2.8 INDIGENOUS COMMUNITY RIGHTS: MEANING AND OVERVIEW:

Indigenous communities do not have a specific definition as of yet and has been periodically defined differently by various organisations and international forums. However in the 21st century, the focus is on self-identification, cultural difference from other groups in the state, a special relationship with their traditional territory, and an experience of subjugation and discrimination under a dominant cultural model.[40]

The appropriate definition of these communities involve a long standing connection to a particular geographic location where these ethnic groups had settled and developed over time, in other words Indigenous communities can be defined as societies with culturally distinctive traits and comprise of members who have had a historic connection to a specific land, making them the oldest inhabitants of that particular area. These culturally distinctive societies are characterized by the usage of traditional language systems, which are typically different from the languages spoken in urban societies, unique cultural identities which also helps maintain integrity and cultural sensitivity amongst these groups, social systems and other distinctive habits, practices, traditions, laws and functions. However these groups have been subjected to discrimination and marginalization based on their reputation in the society and rightfully demands an in-depth analysis of their lost position in the modern world, along with advocating the rights which are legally guaranteed to them.

Indigenous community rights refer to those rights that exist in the recognition of the specific condition of indigenous peoples.[41] These rights can be classified into broader categories of physical rights that guarantee the most basic human needs of physical survival and integrity and moral rights which have been created on account of their existence as a culturally ethnic group which helps them identify as people in the society, these rights include rights over their territories, native titles, language, religion, traditional knowledge systems and everything that includes elements of their unique cultural identities. In light of this research, an effort has been made to emphasize the rights of these traditional communities regarding safeguarding their protected knowledge systems and equitably awarding them in accordance with the rule of access and benefit sharing. Indigenous communities have the absolute right to protect their traditional knowledge and traditional cultural expressions, retaining their cultural identities in the society and benefiting from them in the long run. This definition of indigenous community rights has been used by advocates of social reform for these communities and have simultaneously helped indigenous people to understand the concept of protection under intellectual property laws and the economic benefits arising out of it, giving them a platform to put forward their voices which have been historically suppressed by using various methods in the advent of time.

---

[40] Secretariat of the Permanent Forum on Indigenous Issues (2009). *State of the World's Indigenous Peoples*. New York: United Nations. pp. 4–7.
[41] Indigenous rights, https://en.wikipedia.org/w/index.php?title=Indigenous_rights&oldid=1276430161

2.9 CONCEPTUAL STUDY OF INDIGENOUS COMMUNITY RIGHTS:

The concept of indigenous community rights is synonymous to the protection of a collective cultural identity prevalent in these societies and can be classified under various kinds of rights which includes rights relating to their surrounding environment, land, resources and territory.

1. **Bio-cultural rights**: The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) associates itself with indigenous community rights and traditional knowledge, ensuring that these communities retain their rights to protect their cultural identities and develop and promote their traditional knowledge systems. Article 31 of this declaration talks about bio-cultural rights and ensures that "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as genetic resources, seeds, medicines, knowledge of the properties of flora and fauna."[42]

2. **Self determination**: the right to self determination can be considered as a fundamental principle for various indigenous communities which enables them or rather disassociates other external parties to take political decisions for these groups, thus helping them to achieve an independent political status in the society and pursue their economic, social and cultural goals. The conventions which are directly involved with the self determination right of indigenous communities include The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted in 2007 and the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) along with the Free, Prior and Informed Consent (FPIC) in relation to the matters that affects indigenous lands, territories, resources and way of life.

3. **Intellectual Property Rights**: indigenous communities have come to terms with the usage of intellectual property rights which protects their indigenous intellectual property which encompasses traditional knowledge systems, cultural heritage, indigenous traditional expressions and gives them complete access to practice, promote and develop their traditions, innovations and other ways of life. The importance of IPR protection within these communities is relevant for three purposes namely indefinite cultural protection and preservation, economic benefits and sovereignty.

4. **Equality and freedom:** the right to equality is a fundamental right and is observed by these indigenous communities as a right that has been naturally acquired and not granted. The history of these indigenous communities is marred with marginalism and discriminatory acts committed upon them which were recognised and abolished in time to renew their sense of freedom.

---

[42] International Institute for Environment and Development, https://en.wikipedia.org/w/index.php?title=International_Institute_for_Environment_and_Development&oldid=1277938521

5. **Rights relating to land, resources and culture**: indigenous communities have the right to retain their possessions in the form of property, land, and also promote their cultural learnings by teaching their customs, traditions and ceremonies to the world.

We can formulate a comprehensive analysis of indigenous community rights by analysing the nature of these rights as individual components or collective rights granted to them.

2.10 ISSUES RELATING TO INDIGENOUS COMMUNITY RIGHTS:

The estimated population of indigenous communities range from 250 million to 600 million across the globe.[43] However most of these recognised or unrecognized indigenous groups are in minority in the traditional state they inhabit and have been historically subjected to discrimination and inequitable returns on profits generated by using their traditional knowledge. There are a number of issues categorized as generic and specific issues relating to the rights enforced by these indigenous communities, they are discussed as follows:

1. Historic underrepresentation and encroachment on their right to self determination has been a prevalent problem existing within these communities. Indigenous people are often the missed targets for scientific research leading to a gap in research that could have otherwise improved the social living conditions of these people. Along with that, many indigenous communities are not freely allowed to choose their political systems, which is a direct tactical attack on their right to self determination. These acts are strictly prohibited by the conventions set up by the UN to protect the rights of these communities and free them from the horrors of western colonizers.

2. Forced assimilation refers to the practice of separating a portion of indigenous population from their native land and assimilating them in urban societies and culture, although there are counterclaims proving that these acts can be rewarding by blending modern knowledge with traditional knowledge systems, it is still considered to be an ethical issue considering these populations were forced to unlearn traditional ways of living and speaking native languages. This was a common occurrence which took place in Canada and Australia in the 19th and 20th century.[44]

3. Abuse of land ownership rights by trespassing on their right to cultural lands has been historically prevalent in these communities. The various factors responsible for this orchestrated abuse of rights include appropriating, selling, leasing, plundering and polluting cultural lands and forests rich in minerals and resources by governments or private companies. Enforced discriminatory policies and armed conflicts have resulted in the loss of identities within these

[43]Muckle, Robert J. (2012). *Indigenous Peoples of North America: A Concise Anthropological Overview*. University of Toronto Press. p. 18.

[44] Amnesty International, Indigenous peoples' rights, https://www.amnesty.org/en/what-we-do/indigenous-peoples, (13th March, 2025)

groups which resort to migration to towns and cities in search of a better life, ultimately leading to their extinction as a group and complete dissimilation of their cultural integrity and identity.

4. Restricted access to premium healthcare and other public services is a reflection of the selective discrimination performed on these communities for generations. India and Peru are the best examples of instances where a higher mortality rate has been observed in indigenous women who are most likely to die at childbirth due to restricted or limited access to public healthcare facilities. As a result these communities had to resort to ancient methods of healthcare and treatment for general diseases which often led to failure in pregnancies, premature deaths and other healthcare related problems. Public health services are also exempted from these communities resulting in severe loss of lives on account of outbreak of a global pandemic like Covid-19 with refusal to provide basic sanitation and drinking water to these indigenous groups. It is testament to the fact that these groups were disproportionately treated during this recent outbreak and requires an in-depth examination of the policies which regulated the distribution of public health services during that time.

5. Education is considered to be one of the key areas of concerns among the indigenous communities considering that there exists a significant gap between primary educational knowledge among indigenous children and their non-indigenous contemporaries in the same age bracket. Article 21(A) of the Indian constitution guarantees free education to all children aged between 6-14 including indigenous populations, although the initiative is useful, it faces challenges in the form of regionalism and a backward outlook towards these traditional inhabitants of the land. A lack of expertise among teachers who are not familiar with teaching non conventional students and language barriers act as a divide between these groups and the modern world.[45]

6. Green colonialism refers to the practice of developed countries exploiting the biological resources of underdeveloped or developing countries and benefiting from it; it is commonly observed in marginalized countries which have a significant indigenous population. Contrary to the issues persistent with these practices, there are other methods which aim to make green transitions more inclusive and sustainable from the human rights perspective. Indigenous peoples have been challenging the ways in which this transition is taking place, using the phrase “green colonialism.”[46] With the advent of climate change and an unequal power distribution model prevalent in the society, these communities have been subjected to complete disregard of their natural rights which are preventing them from prolonged sustainability in the economy. Apart from these problems, the existing indigenous communities across the globe face significant

[45] Ibid
[46]Yuko Osakada, Pitfalls of the green transition: Towards a genuine understanding of the right to free, prior and informed consent of the Indigenous peoples, Polar Science, 2024,

challenges in their daily lives, the worst of them is a gradual transition towards realizing that they will fail to achieve the self determinant status in the society.

2.11 THE INTERRELATIONSHIP BETWEEN TRADITIONAL KNOWLEDGE, GEOGRAPHICAL INDICATIONS AND INDIGENOUS COMMUNITY RIGHTS:

1. Traditional Knowledge and Geographical Indications:

TK and GI share a commonality which is to provide protection to accumulated knowledge distinct to a specific geographical region, GIs are focused on product protection and involvement of both producer and distributor/trader, TK focuses on the protection of the cultural integration of the community and indirectly represents the people who belong to that particular geographic location. Protection of traditional knowledge has a closer link to biodiversity conservation because of the traditional practices of environmental resource management and a comprehensive understanding of ecosystems, however some forms of traditional knowledge can be safeguarded under other forms of protection such as GIs which have emerged as a viable tool of protection considering they are linked to providing defensive protection to area specific product manufacturing. GIs are linked to the identification and possible marketing of products that enjoy a certain reputation which is linked to its development in a certain location with distinctive favourable conditions and skilled knowledge of the people developing it, however it is to be noted that GIs can originate from non indigenous backgrounds devoid of any traditional knowledge usage during manufacturing and still enjoy superior status in the market due to its linkage to a place which has a market advantage due to its rich ecosystem and historical relevance.

Considering the fact that a GI has been generated for a product which is produced without using traditional knowledge and belongs to a non indigenous background, the possibility of that GI to preserve the traditional knowledge used to make that product is nonexistent as the preservation will only be relevant if the TK was kept a secret and not otherwise. Registered GIs for indigenous products made using traditional knowledge can help preserve these knowledge systems in the long run, however the drawback is the lack of motivation amongst producers who are seeking to make monetary gains over understanding the importance of safeguarding such TK. The point of difference between these two components is that GIs observe the involvement and distribution of profits, if any amongst the producers and the traders and can help protect the designations associated with the products, TK on the other hand is very difficult to get protection under a form of intellectual property if only protected under trade secrets or patents, however[47] empowering a local community or individual holder of TK with the possibility to exclude third

[47] Blakeney, Michael. (2009). Protection of Traditional Knowledge by Geographical Indications. Int. J. of Intellectual Property Management. 3. 357 - 374. 10.1504/IJIPM.2009.026912.

parties from the unauthorised use of designations of its TK would not only better balance the sharing of benefits from the utilisation of that TK. Finally, the extension of the scope of registered GIs protection under TRIPS would also provide an example for developing countries of the practical utility of an international IP regime and a justification for the implementation of the TRIPS Agreement.

TK and GI share a socio-legal relationship whereby registered GIs from places of indigenous/marginalised origin can reap economic benefits for their products, leading to a sense of self determination amongst these communities helping them to sustain their means of livelihood. However it is to be noted that traditional knowledge that is in public domain and does not classify as a trade secret or protected knowledge cannot enable GIs to equitably reward the original producers of these goods (indigenous or non-indigenous) as there are multiple products being sold whose potential source is the same TK, but due to its reputation being linked to geographic locations and non recognition of the manpower and intellect behind it, difficulties arise in maintaining equitable profits between original intellectual inventors and secondary producers in the global market, this disparity is seen among majority ICs and minority ICs and is considered to be an existing issue in safeguarding TK through GIs.

[48]The relationship between TK and GI in an ideal world would effectively protect the traditions and know-how of a community through registrations of GIs. The reason why GIs are considered to be effective in safeguarding TK is through the concept of niche markets that are created for products with distinctive attributes and characteristics, some of the examples include the Roquefort cheese of France made using traditional techniques, Monsooned Malabar Robusta Coffee, Mysore Sandal Soap and Goa's Feni, these products are GI registered and made using traditional community techniques at the same time, proving that GIs can enhance market value of traditionally produced goods. The point of objection in this regard is the recognition of the rightful intellect behind it and adequately rewarding them because there can be instances when GI registered products from a specific geographic location are developed by minority communities who cannot identify themselves as original recipients of economic benefits because of the nature of GI protection under indian and international laws which protect and reward the end product which can be manufactured by second hand producers, whereas the TK used during the manufacturing process belongs to these communities.

The limitations involved in using GIs as a tool for safeguarding TK is well defined in its definition which clearly states that it is product oriented protection, which narrows down the scope of exploring the traditional methods used to develop the product and extend GI protection to involve the traditions, practices and methods that have used for generations which are now reflected in the end product that will sell in the global market. GIs do not offer any positive protection per say and instead prevents misuse and misappropriation by external parties, it is

[48]https://iplawpost.wordpress.com/2020/09/12/protection-of-traditional-knowledge-through-geographical-indications/

prevalent for sellers to use common TK to manufacture and develop goods and sell them without using the GI tag which effectively helps him to avoid infringement as no indicators are available during such transactions, however the knowledge was used in creating a like to like product which was not registered or indicated to be originating from any particular area or location. Thirdly, the relationship between TK and GI involves two contradicting definitions of commercial usage and retention of absolute knowledge, where ideally traditional knowledge is protected to not only generate profits for producer communities but absolute retention of knowledge and skills, whereas GI protection which will not be used for commercial usage is of little use to buyers. The Muga Silk case from Assam is an example of the point of differences between GI registration for commercial and non commercial usage.

Traditional cultural expressions (TCE) and forms of folklore, stories, dance, music and literature are a strong part of traditional cultures but cannot be recognised as products and hence cannot avail the benefits of GI registration, however products originating from traditional sources fall under the gambit of such protection levels and can be beneficial to these communities.

[49]Communal rights serve as a common factor between both TK and GI's as GIs have been described as a means of "enabling people to translate their long-standing, collective, and patrimonial knowledge into livelihood and income" (Bérard and Marchenay, 1996), effectively describing the scope of GIs in improving sustainability amongst these communities, this has also been observed as one of the key intellectual property objectives of traditional knowledge. As a form of protection, GIs can enjoy perpetual existence regarding product manufacturing as long as the communities (indigenous/non-indigenous) continue to maintain the same practices which had guaranteed the distinct attributes of the product, in this regard GIs tend to offer better protection than other forms of IP considering the scope remains within continued product manufacturing practice in a particular area. It is also notable that advocates of traditional knowledge protection have voiced their opinions in favour of dynamism in development, which otherwise is not a characteristic of Traditional Knowledge.

[50]The TRIPS agreement in this regard is flexible towards the development of sui generis laws across the globe and this option has been successfully undertaken by many underdeveloped and developing nations with majority indigenous populations to improve sustainability.

Inlight of the above discussion, the relationship shared between GIs and TK is unique in the sense that although GIs have the potential to safeguard protected knowledge, the legal

[49]Ibid

[50] Gopalakrishnan, N.S. et al (2007) Exploring the Relationship between GIs and TK: An Analysis of the Legal Tools for the Protection of GIs in Asia, ICTSD Programme on Intellectual Property Rights and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

mechanisms governing them have certain provisionary restrictions which limits the scope of these indicators to consumer protection and facilitation of trade, not recognition of the producer.

2. Geographical Indications and Indigenous Community Rights:

Indigenous community rights encompasses a bundle of special and fundamental rights including the right to protection under intellectual property law. Geographical Indications which are the latest addition to IPR offers such protection to products originating from a particular location with a distinctive topography, soil and climate along with the traditional practices and methods followed by local communities which obtain these knowledge systems from their previous generation as they are passed down orally from one generation to the other generation, these know-how techniques when developed alongside favourable climatic conditions, helps develop a product which is unique in nature and attributes, possibly considered to be of higher commercial value. However, reputed products can also originate from non-indigenous backgrounds based on acquired knowledge, linking the commercial value of the product completely to the specific region. A lot of these indigenous communities have come to terms with the possible benefits of exercising their IPR and as a result have opted for ways which will aid their commercial growth and improve long term sustainability.

GIs are directly linked to consumer protection and distribution of profits amongst producers and sellers, the scope of GIs in intellectual right protection can be understood by analysing the motivation behind only commercial profits or commercial profits in addition to safeguarding traditional knowledge and indigenous traditions as a whole. In the first instance, a GI has been registered for a product originating from a non-indigenous background, in this case the product development is linked primarily to its geographic location and secondarily to the local knowledge involved in manufacturing the product, a unique value is added to the product which increases its commercial growth, subsequently the scope of GI in safeguarding traditional knowledge for this particular product is immaterial as the know how practices of the area are common knowledge systems that are being used, with multiple sellers using common TK to sell products linked to its place of origin. On the other hand, the scope of GIs change when products are developed by indigenous or local communities because the original inhabitants of the land were well equipped with local knowledge and aided by favourable ecosystems which helped them convert these theories into practical usage by product generation and lifestyle management, these groups acquired protected knowledge from their ancestors and later put them to use for sustaining their lives, the goal was not to generate commercial profits, it was only after the incorporation of GIs into the IP forum that there was an opportunity for traders and sellers to interact with these communities and market the products which had some commercial value and return profits to these communities as part of their rights under IPL. However, the registration procedure requires the complete disclosure of the manufacturing technique which goes against the concept of perpetual protection of indigenous TK, indirectly exposing their traditional secrets to other producers around the globe. This exposes the duality of using GIs to empower

indigenous community rights as it offers to reward profits but at the cost of partially or completely disclosing their traditional knowledge to the world.

[51]Geographical indications have the potential to empower indigenous communities indirectly influencing their IPR in a positive way by adding incentives to their lives in the following ways:

- Increase of price for the producers, structuration of the value chain

- Development of the territory: Tourism, festival and employment

- Preservation of traditional knowledge (scope is limited)

- Preservation of Biodiversity

Similarly the limitations that are associated with GIs in promoting IC rights are as follows:

- Market exploitation and other kinds of misappropriation

- Imbalance of priority between private profits and empowering indigenous communities

- Lack of moral incentive to protect and reward these communities at the same time.

Geographical indications when merged with the broader concept of biodiversity protection, offers a much wider form of protection to indigenous communities in a way that a particular product originates from a specific geographic location and keeps developing to the extent of the perpetual existence of that specific location and its surrounding biodiversity, which aids in the continued development of the unique features found in that product. If a dual protection model is proposed whereby policies relating to absolute preservation of biological resources is enforced in a particular area, it helps in extending the life of the product which extracts its special characteristics partly from these resources and then gets developed by local producers, GIs can help obtain the protection these products seek in the market and by infusing the two models of biological conservation to prolong product development firstly and manufacturing and selling them for commercial purposes secondly, the communities don't have to necessarily disclose their secrets, although the implementation of such a model is difficult considering the malpractices regarding unequal benefit sharing with the inventors and other persistent problems. The relationship between GIs and ICR is unique as it navigates the challenges of placing these indigenous communities at the core of the management of GIs while retaining the positives in the form of long term protection, evolution of products by involving nature, climate, land, culture and society.

---

[51]Dr Delphine MARIE-VIVIEN, How can Geographical Indications be useful for Indigenous Peoples and Local Communities?, Geneva (Virtual), May 26, 2021, https://www.wipo.int/edocs/mdocs/tk/en/wipo_webinar_grtkf_2021_3/wipo_webinar_grtkf_2021_3_p3.pdf.

3. Indigenous Community Rights and Traditional Knowledge:

Indigenous communities over a course of time have retained unique cultural identities and have preserved distinctive understandings that have helped to guide them and others who don't belong to these communities in various walks of life. These constitute a system broadly known as traditional knowledge or indigenous knowledge in some parts of the world.[52]It is important to understand that these knowledge systems are perpetually linked directly to a bundle of rights which are naturally available to these communities. IPRs are one of the many rights which aim to protect the core of indigenous cultures, identities and livelihoods by enabling these indigenous identities to maintain, control, protect and develop their traditional knowledge. The protection of such knowledge is critical in the sense that the survival and wellbeing of these groups depend on it, it is because of the fact that TK or IK is recognised as the driving force behind engineered sustainability among these groups and has been relevant for generations.

Indigenous community rights fall under the scope of customary laws which actually govern these communities and unlike codified laws which govern modern societies, these laws precisely consist of a set of traditions and customs which are observed by all the collective members of the community or tribes in case of indigenous groups.[53] One of the key features of customary laws is that it is directly linked to the scope of exercising the rights which are guaranteed by a sense of continued practice, like the right to use natural lands which are home to indigenous populations, subsequently restricting the unauthorized access to these lands by external parties. By doing so, these laws clearly define the rights and obligations which are to be followed by these groups. These rights and obligations can be in relation to inheritance, property, intellectual creations, safeguarding traditional knowledge etc. Long term maintenance of these rights are crucial in the sense that these indigenous communities have existed on the working principle of customary traditions, heritage and indigenous cultural expressions (TCEs), and have often advocated for the recognition of these customary laws beyond their communities, to the greater population, in order for them to value the traditional existence of these groups and compensate them accordingly if their rights are violated.

Traditional knowledge forms the nexus of the identity which collectively represents these groups, without an adequate protection of these knowledge systems, it is only evident that the collective identity will perish in time ultimately leading to the complete erosion of their existence. However there are persistent issues that need to be tackled in order to accomplish the goals of sustainable development amongst these communities, especially in the field of intellectual property laws and the forms of protection that are reviewed and scrutinized to offer the best possible methods of safeguarding traditional knowledge.

---

[52]Bruchac, M.M. (2014). Indigenous Knowledge and Traditional Knowledge. In: Smith, C. (eds) Encyclopedia of Global Archaeology. Springer, New York, NY.

[53]https://www.wipo.int/edocs/pubdocs/en/wipo-pub-rn2023-5-7-en-customary-law-and-traditional-knowledge.pdf

The scope of protecting traditional knowledge of these indigenous communities is limited to the fact that customary laws need to be recognised beyond the definitions used amongst indigenous populations and blend them with intellectual property laws at a sui generis level. WIPO lays down the provisions for protection of local or national intellectual property amongst its member nations and these nations are expected to mirror the international regulations relating to IPR and inculcate them in their intellectual protection models, enabling a local level of intellectual protection amongst these groups.

[54]The concept of intellectual property law has its origin in europe, heavily inspired by its derivations and works on the standing principles of identification, classification and operation, this is in contrast to customary law practices regarding intellectual protection prevalent amongst indigenous societies. These customary law practices are often not codified or structured in nature and not enforceable by statutory authorities or government facilities that regulate the proceedings of safeguarding traditional knowledge and hence falls short as a globally effective and enforceable protection mechanism, one of the major issues related to this is the need to completely disclose secrets relating to traditional knowledge otherwise which traditional IPR cannot coexist as a form of patent protection, however these customary laws can be used to fill in the gaps which exist as loopholes in modern intellectual property protection, whereby both forms of positive and defensive protection can be provided to these groups.[55]

The other kinds of rights namely Land rights, rights relating to self determination and rights relating to bio-cultural heritage, rights against discrimination and marginalism are all interconnected in protecting the cultural identities of these communities as surrounding ecosystems, environmental resources and cultural lands have a big influence in determining the lifestyle of these communities, and when they are closely monitored it is evident that the traditional knowledge that has been passed down from one generation to the other, the idea was to utilize their intellect in accordance to the best available environmental resources in order to sustain their lives in the long run. It is in this regard that indigenous community rights are significant not only in the sphere of intellectual property but also encompasses other forms of rights which in addition to the provisions laid down for the absolute protection of traditional indigenous knowledge has helped these communities to survive for generations.

Indigenous communities, traditional knowledge and customary laws are expected to be understood beyond the statutory laws set at international levels and redesigned and revitalized as area specific local laws or simply sui generis model law. The relationship between traditional knowledge and indigenous community rights is a reflection of the status of these communities in the society and effective mechanisms to protect and promote traditional knowledge will not only benefit these communities but also positively influence people from other walks of life.

---

[54] Dr. Jane Anderson, indigenous/ traditional knowledge intellectual property, Duke University School of Law Center for the Study of the Public Domain, 1, 1, (2010).
[55] *Ibid*

2.12 CHAPTER CONCLUSION:

"SOLUTIONS WILL NOT BE FOUND WHILE INDIGENOUS PEOPLE ARE TREATED AS VICTIMS FOR WHOM SOMEBODY ELSE MUST FIND SOLUTIONS."[56]

- MALCOLM FRASER

The conclusion of this chapter highlights the fundamental points of commonality between traditional knowledge, geographical indications and rights of the indigenous communities, with special focus on the intricate relationship that these three components share. The researcher has assessed the nature of traditional knowledge systems and their importance to the indigenous communities of India and the world, understanding that cultural integrity is the main driving force behind sustainable mechanisms undertaken by traditional or local groups, these protected knowledge systems closely tie these groups with their ancestral roots and also to their cultural lands. Amongst the minority indigenous communities that exist in modern India, Adivasis account for more than 10 percent of indigenous population, residing primarily in the states of West Bengal, Bihar and Chattisgarh, it is to be noted that no accounts of traditional knowledge protection through GIs is prevalent in the areas where these groups reside. The reason being a lack of commercial value attached to products originating from these communities. The point of conflict is the question of whether the scope of domestic laws is flexible enough to acknowledge the non-commercial related inventions that have taken place within these societies and whether they can be included and protected under common law systems as pure indigenous intellectual creations for livelihood and sustainability, it is in this regard that GIs have been considered as a half measure tool to help these communities benefit from necessary compensation and also enjoy perpetual existence and a position in the society as respectable communities.

The modern approach towards intellectual property laws does not exactly function the same way for minority indigenous communities as it does to other private or collective rights holders, it is in this regard that a paradigm shift is needed to understand the current state of indigenous communities and their extent of promoting their natural rights.

A call for action is the need of the hour with assistance from policy makers, governing bodies and statutory authorities who are responsible to take into account the living conditions of these indigenous communities and help them to grow and achieve long term sustainability goals. Capacity building programs conducted both nationally and internationally will help these communities maximise their potential in the society. Apart from that initiatives undertaken by communities who are interested to understand the issues related to indigenous groups can prove to be beneficial in the long run, it will only help to develop recognition and respect in the society for these communities, which they are naturally entitled to.

---

[56] "Malcolm Fraser Quotes." BrainyQuote.com. BrainyMedia Inc, 2025. 15 March 2025. https://www.brainyquote.com/quotes/malcolm_fraser_292552

CHAPTER 3: THE INTERNATIONAL PERSPECTIVE

3.1 INTERNATIONAL STAND ON TRADITIONAL KNOWLEDGE:

Traditional knowledge or indigenous knowledge along with traditional cultural expressions were well known in the international forum as a recurring topic of discussion on helping marginal communities achieve greater economic status and help them attain sustainability as part of the sustainable development goals initiative taken by the United Nations. [57]However it was only after the inception of the Convention on Biological Diversity, 1992 that the need for safeguarding TK was better understood by the world and it quickly gained the formal recognition of renowned international forums and other platforms, the possible reasons for this late recognition can be linked to the phenomenon of historical disregard for these ancient knowledge systems as they did not necessarily add any commercial value and instead were considered to be outdated ideas that found no relevance in modern lives. There was a great deal of difficulty in introducing TK as an IPR as the nature of TK was such that it could not be protected under the other existing forms of protection, however with the advent of the CBD, 1992, traditional knowledge became a relevant topic for discussions around the world. In this segment, the international perspective on TK has been understood by reviewing historical conventions and their latest developments.

3.1.1 HISTORIC CONVENTIONS - THE BERNE CONVENTION (1886):

The Berne convention for the protection of artistic and literary works focused on the protection through copyright for artistic and literary works and did not necessarily provide any guidelines for safeguarding traditional knowledge, instead the focus was on ensuring that the original author was granted his rights regarding authorship and it is duly recognised by the other member nations. Although the Berne Convention did not necessarily elaborate on traditional knowledge protection, interestingly the provisions were suitable to include the traditional cultural expressions which were related to traditional folklore, ancient literature and other indigenous literary works including dance, music and other forms of expressions. This merely is a speculation as the time period when this convention was declared, the society was already suffering from the horrors of discrimination and marginalism and indigenous communities were at the forefront of it. The highlight of discussion on the Berne convention is the introduction of copyright intellectual property laws for the first time which now has the capacity to be merged with indigenous customary laws enabling safeguarding of such ancient traditional cultural expressions. The Berne convention laid down the path for recognition and protection under intellectual property laws for the first time, and was followed by historic conventions and

[57]Centre for Regulatory Studies, Governance and PublicPolicyThe West Bengal National University of Juridical Sciences, Kolkata, Traditional Knowledge and Traditional Cultural Expressions amongst the particularly vulnerable tribal groups of West Bengal, 44, 1, (2021-2022).

declarations that laid down provisions for the effective management of indigenous tribes and their knowledge and cultural expressions.

3.1.2 THE RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT (1992):

The Rio Declaration on Environment and Development, 1992 was a formal declaration made with the aim to foster economic, environmental and sustainable growth amongst its member nations and laid down certain provisionary principles in accordance to environmental sustainability. The 22nd principle of the Rio Declaration on Environment and Development highlighted that the indigenous people and their communities have a vital role in environment management and development because of their knowledge and traditional practices. It was for the first time that a positive correlation between indigenous populations and biodiversity management was established, although no other principles addressed the protection of traditional knowledge and environmental resource safeguarding.

[58]The earth summit held at Rio de Janeiro laid down the foundation for a positive recognition of traditional knowledge and other indigenous innovations as intellectual property rights and saw more than one hundred and eighty member nations adopt the Agenda 21 which exclusively addressed the rights issues of these traditional communities and proposed revised policies for protection of indigenous rights in relation to safeguarding traditional knowledge and biological conservation methods as the potential of these communities were observed in the field of biodiversity management and environmental sustainability.

3.1.3 THE CONVENTION ON BIOLOGICAL DIVERSITY (1992):

The convention on biological diversity is considered to be the first international instrument which acknowledged the contributions of indigenous communities to the society, their traditions, culture, traditional knowledge, practices and also emphasized on their rights which otherwise have been historically disregarded. The focus of this convention was the establishment of principles for the purpose of protecting the natural environment while assuring that ongoing development regarding the conversion of biodiversity, fair and equitable sharing benefit and the application of genetic sources for sustainability.[59]

The convention for the very first time focused on the topic of biodiversity protection as an universal call for action and made provisions to be included that will aid in long term safeguarding of environmental resources and also benefit sharing between member nations. One of the most key provisions in this convention was Article 8(j) which elaborated on the scope of intellectual creations and their protection under existing intellectual property laws. The article mentions that the owner of an original idea (individual or collective) has the complete right over

[58] Ibid, 45.
[59] Ibid, 46.

his intellectual creation even though there are no existing forms of protection to safeguard it from misuse and misappropriation. The government is responsible to draft new laws which guarantee and include newer forms of protection to include these knowledge systems and the creations that come out of it. The convention was unique in the sense that it aimed to cover all aspects of ecosystems, their development and preservation in time, species and genetic resources as part of a global program useful in understanding the need of biodiversity conservation. One of the key features of the provisions laid down were the recognition of traditional conservation methods and converting them into modern practices of sustainable development of natural resources, although indigenous traditions have not been individually highlighted as the existing forms of preserved traditional knowledge, it is evident that the convention aimed at acknowledging these practices of conservation undertaken by various indigenous communities across the world.

3.1.4 THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE (2001):

The international treaty on plant genetic resources for food and agriculture (ITPGRFA) or simply the International plant treaty was signed in 2001 in accordance with the provisions laid down by the convention of biological diversity. This treaty did not directly acknowledge the issues regarding safeguarding traditional knowledge and indigenous sustainability, but indirectly included them by addressing the need to guarantee food security through the conservation of biodiversity, exchange and supply programs in relation to sustainable uses of plant genetic resources and equity in access and benefit programs. It is to be noted that indigenous communities followed the customary practices of various forms of plant breeding which resulted in the generation of resources which when preserved using indigenous knowledge systems, can become a viable tool for ensuring food security amongst deprived communities which have limited access to sufficient nutritious food. These traditional techniques of breeding ensure maximum utilization of natural resources found in abundance in nature and also guarantee long term preservation due to sophisticated preservation methodologies engineered by ancient tribes. However these fall under the gambit of potential intellectual property and have been scrutinized as to what extent can IPR be enforceable in times of food crisis in the global economy.

Despite the issues and drawbacks regarding enforceable intellectual property rights in this regard, the ITPGRFA, 2001 was the first treaty to recognize community and farmer rights in relation to the building, development and preservation of environmental resources and subsequently without naming any particular indigenous communities, included their rights as collective community rights. This can be understood better by drawing a simple analogy where we have taken the example of the Australian Aboriginal tribe which has been engineering ancient practices of resource allocation and developing them to provide food for their own communities, in this regard these communities become eligible for the absolute protection of their rights as they become participants in accomplishing the goals set by the ITPGRFA.

Producers or farmers are responsible for the protection of traditional knowledge used in genetic resource manufacturing for plants for food and agriculture and their rights need to be protected in form of equitable access and benefit rations, having been thoroughly monitored by governments.

3.1.5 THE BONN GUIDELINES (2002):

The Bonn Guidelines were a set of standard environmental protocols undertaken in the year 2002 as part of the Convention on Biological Diversity which laid emphasis on the fact that all genetic resources and associated traditional knowledge, innovations and practices covered by the CBD and the benefits arising from the commercial and other utilization of such resources should be covered by the guidelines with the exclusion of human genetic resources.[60]

The guidelines focused on the access and benefit programs which are divided into two components namely prior informed consent (PIC) and mutually agreed terms (MAT). The identification of these components is important and include other minor provisions like monetary and non monetary benefits. The role of indigenous traditional knowledge in providing and developing genetic resources is prevalent, leading to the identification of such communities who are involved in the resource making process. Post identification and technical legalities, these communities can be merged into the ABS which can guarantee monetary or non monetary benefits. The point of conflict however exists in empowering these communities by means of ABS which is a complicated process used to recognise the true producers and guide access and benefit programs between them and other institutions.

3.1.6 THE NAGOYA PROTOCOL (2010):

The Nagoya Protocol on Access and Benefit Sharing was a supplementary agreement in relation to the 1992 Convention on Biological Diversity and shared a common aim with the Bonn Guideline in establishing a fair access and benefit program and overseeing the equitable distribution of benefits arising out of the use of genetic resources, ultimately helping in prolonging environmental sustainability. Administration and compliance relating to access and benefit programs were the fundamental objectives of this protocol.

The extent to which the Nagoya Protocol in accordance with the CBD was useful in identifying traditional knowledge systems used in the development of genetic resources is a topic of debate as it saw repeated allegations of western influence and systematic bureaucracy. The allegations were in accordance with unequal distribution of benefits among producer communities which often involved both majority and minority indigenous communities. However this protocol laid down provisions that could positively promote indigenous traditional knowledge by establishing a systematic chain of acquiring PIC from these communities and the benefits arising out of the

[60]Secretariat of the Convention on Biological Diversity (2002). Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization. Montreal: Secretariat of the Convention on Biological Diversity

use of their developed genetic resources, helping these communities become a part of a global non-industrial supply chain which will not only directly affect their sustainability but also help these communities attain absolute self determination.

3.1.7 UNIVERSAL DECLARATION ON HUMAN RIGHTS (1948):

The UDHR was a formal declaration in the form of an international instrument constructed and overseen by the United Nations General Assembly in accordance with the rights and freedoms of all human beings. The declaration consisted of 30 articles which explicitly outlined the fundamental rights and basic freedom of all human beings around the globe, making it the first official document presented by the UN which aimed to discuss and rectify provisions relating to natural human rights and civil rights. The key features of this declaration was the definition of natural rights and how it couldn't be separated from people belonging to any particular community, caste, race, nation etc, as these rights are considered inalienable and universally applicable. Although this declaration did not have any legally binding effect, most of the member nations adhered to the provisions mentioned in it and have worked closely on the development of local laws in relation to fundamental rights. The UDHR had a global approach and didn't particularly focus on any particular community or race, making it the first non binding instrument to have such a profound influence on the social, economic and legal status of most of its member nations.

The key aspect relating to the UDHR was the right of an individual to be a part of their inherent culture, development of art and scientific advancements and their right to protect their interests regarding any works which can be considered their intellectual property. This declaration was considered a step ahead in promoting marginalized communities which included various kinds of indigenous communities around the world who had been advocating for their natural rights and protection of their intellectual property under customary laws.

3.1.8 THE AGENDA 21 (1992):

The agenda 21 was a byproduct of the Earth Summit that had taken place in Rio in 1992 and was a non legally binding charter on achieving sustainable development around the world. As the name suggests, 21 refers to the set of 21 sustainable development goals (SDGs) that the agenda aimed to achieve by the year 2000, with providing a fundamental platform for other conventions and agreements to follow in the future. These set of provisionary rules were expected to be reflected in every member nation’s millennium development plan and aimed at achieving absolute sustainable development not only amongst developed nations but also included minority, underdeveloped and developing nations who were a part of this charter. Although the implementation of article-21 has been limited in the indigenous communities around the world, the agenda aimed at the protection of such traditional groups and their knowledge systems by associating them to the chain of sustainable development and resource management which would have placed these communities at the face of sustainable development governance.

3.1.9 TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (1995):

The TRIPS agreement signed in 1994, effective from 1995 was the first legal agreement in accordance with the world trade organization (WTO) which laid down the standard protocol for the recognition, development, and management of intellectual property laws by all the member nations who were a party to this agreement. The agreement elaborately describes the scope of protection of IP using domestic and international laws and encompasses various protection mechanisms including copyrights, patents, trademarks and geographical indications.

Although the TRIPS agreement does not specifically mention any provisions relating to the rights of indigenous communities and safeguarding their traditional knowledge, some of the other articles have been interpreted in order to understand the scope of TK protection under the other forms of protection available in IP. The first article of the agreement specifically mentions that the member nations can, although not obliged to establish and implement new domestic laws for IP protection, more than the number of currently existing laws in order to add more exclusive protection, however these laws should not be in contravention to the agreement itself. The other articles were in accordance with the management of different IP protection tools which were not suitable to protect traditional knowledge or simply could not provide direct protection in the form of community rights, however it did lay down the provisions for the implementation of newer and effective laws.

The sui generis model that was proposed for the protection and management of domestic laws is considered to be the solution to the existing problem of indigenous intellectual protection regarding traditional development of plants and other genetic resources, the TRIPS agreement emphasized on the exclusion of commercialisation from products originating as a moral invention and focused on the increased protection of plant species, varieties and other resources.

3.1.10 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (1964):

The UNCTAD is an intergovernmental organisation in accordance with the United Nations Secretariat that focused on the world trade scenario amongst developing nations in its charter. One of the key highlights of the UNCTAD was the work undertaken in relation to trade environment development which proposed measures for the safeguarding of traditional knowledge which for the first time was given due recognition as the article 7 of this protocol proposed that access to traditional knowledge associated with genetic resources must be based on prior informed consent (PIC) and benefit sharing must take place if such TK is accessed by other external parties. The other key highlight of this conference was the member nations formally recognizing the need to safeguard TK as part of national and international sustainability programs by means of exchange of policies and other measures.[61]

[61] Centre for Regulatory Studies, Governance and PublicPolicyThe West Bengal National University of Juridical Sciences, Kolkata, Traditional Knowledge and Traditional Cultural

3.1.11 WORLD INTELLECTUAL PROPERTY ORGANIZATION (1967):

The WIPO was created in order to protect and promote intellectual property amongst world nations and other international organisations and is considered to be a specialised agency of the United Nations working in tandem with other organisations in order to broaden the scope of IP protection. The traditional knowledge division of the WIPO works on the intersection of biodiversity and intellectual property along with special focus on climate change, protection of associated traditional knowledge, and sustainability. Traditional Cultural Expressions (TCE/folklore) is mentioned in this particular division as a critical point of interest along with genetic resources and traditional knowledge. The specific activities of the TK division of the WIPO include promotion of community entrepreneurship meaning the placement of communities at the helm of governing operations and business, along with advising on the documentation of traditional and associated traditional knowledge.

The formation of the Intergovernmental Committee in the year 2000 saw the rise of promotional and advisory activities in relation to the safeguarding and documentation of TK, along with survey methods to find out better methods of protection amongst these communities. The ground level engagement policy formulated under the WIPO ensured that indigenous communities were positively involved in engagement programs with domestic, national and international organisations associated with the traditional knowledge division. The WIPO was instrumental in addressing the issues related to prolonged non documentation and misuse of traditional knowledge and advised on an umbrella protection model for safeguarding traditional knowledge.

3.1.12 UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES' (2007):

The UNDRIP was a non legally binding declaration which focused on the protection of indigenous rights including cultural rights, land rights, rights relating to cultural identities, healthcare, indigenous education and indigenous intellectual property rights relating to traditional knowledge protection. The formation of this declaration was a result of the acknowledgement of the age-old atrocities faced by these communities and aimed at the abolishment of decentralization which posed a serious threat to the development and recognition of these communities. [62]The United Nations in its declaration, mentions that the formation of UNDRIP was a step ahead in setting an important standard for the treatment of indigenous communities around the world which approximately estimates at 370 million indigenous peoples' and assisting them in combating discrimination and marginalization.

Expressions amongst the particularly vulnerable tribal groups of West Bengal, 44, 1, (2021-2022).

[62] Declaration on the Rights of Indigenous Peoples, https://en.wikipedia.org/w/index.php?title=Declaration_on_the_Rights_of_Indigenous_Peoples&oldid=1276520835 (last visited Mar. 17, 2025).

3.1.13 CONVENTION CONCERNING INDIGENOUS PEOPLES IN INDEPENDENT COUNTRIES (1986):

The convention concerning indigenous people in independent countries was drafted in 1986 as a precursor to the ILO convention on Indigenous and Tribal People which was adopted three years later in 1989. This convention does not hold any particular value in the sense that it was an initiative which took shape later under the guidance and assistance from other binding conventions under the United Nations development program. However the convention idea was based on the development and wellbeing of indigenous communities in independent nations around the world which were a part of the UN. The key areas of focus included recognition, economic strengthening, sustainability programs and other community benefits.

3.1.14 ILO CONVENTION ON INDIGENOUS AND TRIBAL PEOPLE (1989):

The Indigenous and Tribal Peoples' convention previously known as the convention concerning indigenous people in independent countries was drafted in 1989 as part of the International Labour Organisation Convention also known as the ILO Convention 169.

Out of all the existing declarations and charters, this convention is formally recognised as the official binding charter for indigenous people and communities around the world and comprises a preamble and forty four articles divided into ten chapters focusing on sector wise development in indigenous communities and performing advisory roles. The preamble enlists certain provisions which perform as a comprehensive set of rules and guidelines to which the member nations of the charter are bound to follow, these include the guidelines laid down in the 1957 edition of the Indigenous and Tribal populations Convention and Recommendations which was later updated. The focus was retained on the need for the promotion of human rights and rights in accordance with the culture, lifestyle, self determination of these communities and called for action to discard the earlier approach to tackling human rights issues regarding indigenous populations. These approaches included forced cultural assimilation which paved the way to complete loss of control amongst these indigenous groups which had the natural right over their institutions and way of living. The modern approach tackled this very problem by specifically aiding these communities in fostering self determination and regaining their natural and acquired rights.

The chapters outlined in the convention focused on the areas of general policy, land matters, social security and health, indigenous employment opportunities, development of rural industries, education and communication and other key areas. However it is to be noted that the convention was challenged in the form of limited or minimal participation from the member nations leading to stranded policies and delayed execution.

These conventions paint a clear picture of the development of indigenous traditional knowledge through various means of international protection measures and help assess the current problem.

3.1.15 PERSPECTIVE ON TRADITIONAL KNOWLEDGE (CONTINENT WISE):

1. **EUROPE**: Local ecological knowledge has been observed in Europe for generations and has been characterized by human interactions with the environment, creating a strong link between man and nature. The members of the EU working in accordance to the CBD convention for the protection of biodiversity has observed the use of GIs in tackling the issue of regional recognition of products and data based registrations originating from Bavaria, Austria and Sweden have helped in assessing prerequisites for TK usage in agricultural and food products.[63]

2. **ASIA**: In Asia, a growing recognition of traditional knowledge usage has surged in countries like Bhutan, India, Nepal, Vietnam and the Philippines in recent years, with the advent of newer laws like the Biodiversity Act of Bhutan 2003 focusing on the PIC policies regarding access and benefit sharing, The Indigenous Peoples Rights Act of 1997 focusing on the promotion of indigenous cultural rights and prevention of misuse and exploitation of customary laws,traditions and lifestyle. The Indian perspective on TK has been explained in the next chapter.

3. **AUSTRALIA**: Australia has a historic connection to major Indigenous Communities and has been widely regarded as one of the first continents to inhabit a large number of indigenous people who belonged to the Aboriginal tribal origin and the Torres strait islands. These island tribes had historic connections to age-old traditional practices of sustainability and resource allocation in these regions, along with unique symbol building practices. The design act of 2003 acknowledged the use and development of traditional knowledge for all purposes and mandated the registration of elements developed using traditional knowledge or indigenous knowledge.

4. **AFRICA**: There is a wide distribution of African indigenous communities amongst its countries and declarations and conventions in relation to the protection of these communities have existed for a long time. These countries include [64]Zambia (The Protection of TK, Genetic Resources and Expressions of Folklore Act, 2016), South Africa (Patents Amendments Act, 2005 and National Environmental Management Biodiversity Act 2004), Namibia (Industrial Property Act, 2012 (Act No. 1 of 2012), and Kenya (Protection of TK and Cultural Expressions Act, 2016).

5. **AMERICA:** The American indigenous traditional knowledge has been prevalent for generations. The south american countries of Peru, Panama and Chile have adopted local and domestic laws to be implemented in accordance to the sustainability of traditional communities. Laws relating to industrial property in accordance with their TK and genetic heritage are

---

[63] Tobias Kiene, Traditional knowledge in the European Context, 4, (2006).
[64]Centre for Regulatory Studies, Governance and PublicPolicyThe West Bengal National University of Juridical Sciences, Kolkata, Traditional Knowledge and Traditional Cultural Expressions amongst the particularly vulnerable tribal groups of West Bengal, 50-51, 2, (2021-2022).

observed in Chile along with laws relating to protection of collective knowledge of indigenous peoples derived from biological resources[65] which are observed in Peru.

3.1.16 RECENT INTERNATIONAL DEVELOPMENTS ON TK:

There has been a few recent developments on traditional knowledge in the international forum, these developments have been enlisted as follows:

1. **WIPO, (2024)**: The World Intellectual Property Organisation adopted a landmark treaty in May, 2024 in relation to the recognition of intellectual property and its subsequent inclusion of protection of genetic resources and traditional and associated traditional knowledge. The significant development is the addition of newer provisions to facilitate faster growth amongst indigenous communities and the creation of an interplay for the first time between TK, IP and genetic resources. This treaty signifies the recognition of traditional cultural expressions and TK as intangible assets and can range from traditional medicine to environmental knowledge offering a systematic analysis of these knowledge systems and developing them in time.

2. **IUCN, (2024):** The International Union for Conservation of Nature (IUCN) has observed and declared indigenous communities as a cornerstone for biological conservation and mandatorily seeks active participation of more indigenous communities as a part of the program. In 2024, the IUCN declared revised objective goals with more accommodative provisions for the inclusion of indigenous communities, with the objective of advocating for their inclusion in the glocal biodiversity framework and conservation efforts, emphasizing on the need for indigenous recognition, collaborative programs and equitable benefit sharing.

3. **UNESCO, (2024)**: The UNESCO chaired an intangible cultural committee in the month of December, 2024 and included several new intangible cultural identities across the world namely Wosana ritual and associated practices (Botswana), Reog Ponorogo Performing art (Indonesia), Guarania, sound of paraguayana soul (Paraguay), Equestrian art (Portugal), Knowledge, Practices and beliefs related to jang making (Republic of Korea), Intore (Rwanda), Cultural practices related to Taif roses (Saudi Arabia), Tradition of Nablusi Soap making (Palestine), Performing arts among the Waif of Ghbonten (Tunisia), Pysanka, Ukrainian tradition of decorating eggs (Ukraine, Estonia).[66]

4. **REGIONAL DEVELOPMENTS**: There has been a significant surge in the recent regional developments in accordance to the inclusiveness of indigenous communities in biodiversity programs including developments observed in the African Union's Policy framework on Traditional Knowledge and The Association of Southeast Asian Nations Cooperation on Traditional Knowledge.

---

[65] ID. 55-56.

[66] https://www.unesco.org/en/intangible-cultural-heritage/committee-2024

3.2 INTERNATIONAL STAND ON GEOGRAPHICAL INDICATIONS:

3.2.1 BRIEF HISTORY OF GEOGRAPHICAL INDICATIONS:

Europe is widely considered to be the place of origin of Geographical Indications although the definitive explanation of GIs were limited to protection from external usage and focused primarily on the products which were in relation to food and agriculture. The development took place in the form of recognizing the need to offer protection to goods and products which were establishing a direct link to their production in a specific area which had contributed to the development of distinct features in that product.

Governments are protecting trade names and trademarks used in the context of food products identified from a particular region, which until the late nineteenth century, laws were used or passed against inaccurate trade descriptions, which usually protect against suggestions that have a certain origin, quality, or the product, or association when it does not. In such cases, the competitive freedom that arises from the grant of a monopoly of use on a geographic indication is justified by governments for consumer protection benefits or producer protection benefits

Geographical indications have been associated strongly with the concept of Terrero and as a unit with Europe, where there is an existence of a tradition of linking certain food products with particular regions and their origin. One of the first G.I. systems used in France since the early part of the twentieth century are known as the Appellate d'Origine Controloli (AOC).[67] Items which meet geographic origin and quality standards can be approved with a stamp of government that serves as the official certification of the product's origin and standards to the consumer. Examples of products that have such 'appellation of origin' include Gruyère cheese (from Switzerland) and several French wines.

Under "Champagnerparagraph [de]"[68] of the 1919 Treaty of Versailles, Germany was forbidden from using allied geographical indications on products, which in particular affected the German "cognac" and "champagne" industries, as the French considered the terms misleading references to places in France. Since then, the terms "Weinbrand" and "Sekt"[69] have been used instead. Under European Union Law, the protected designation of origin framework which came into effect in 1992 regulates the following systems of geographical indications namely "Protected designation of origin" (PDO), "protected geographical indication" (PGI), and Traditional Specialities Guaranteed" (TSG). Since 2006, the European Union has required provisions in geographical indications in free trade agreements that have required certain provisions binding the other member nations.

---

[67]https://en.wikipedia.org/wiki/Appellation_d%27origine_contr%C3%B4l%C3%A9e
[68]https://en.wikipedia.org/wiki/Champagne#:~:text=Champagne%20(%2F%CA%83%C3%A6m%CB%8 8,grape%2Dpressing%20methods%20and%20secondary
[69]https://curia.europa.eu/juris/showPdf.jsf?text=&docid=88866&doclang=EN

3.2.2 AGREEMENTS AND CONVENTIONS ON GEOGRAPHICAL INDICATIONS:

1. THE PARIS CONVENTION (1883):

The Paris Convention for the Protection of Industrial Property which was signed in the year 1883, was one of the first international treaties signed in relation to intellectual property at that time. Geographical indications have been in use for several years and were common assignments to specific products, before the provisions relating to GIs were laid down by the TRIPS agreement, the Paris convention along with the agreements in Madrid and Lisbon were the only multilateral agreements that had laid down emphasis on the practice of offering protection to goods originating from specific geographic locations. The terms that were in use at that time were "indications of source" and "appellations of origin".

The first article mentioned in the Paris convention highlighted these terms as objects of protection, however no definitions were provided in that regard, it was only during the Lisbon agreement that the definitions of the terms "indications of source" and "appellations of origin" were clearly defined as modes of protection offered to products which have retained distinctive qualities acquired from resources belonging to a particular geographic location, the name of the place from which the product originated was highlighted as the indication of the source or the appellation of origin of the product.

The article aimed at protecting the end product and safeguarding its place of origin by effectively prohibiting the use of false indications of source meaning that any product or sources that bear a false indication of source either directly or indirectly. These false indications of sources referred to the sources from which these products did not originate from and had been falsely tagged with. The provisions mentioned in this article served the purpose of preventing the misappropriation and unauthorized use of a product that could lead the customers to the wrong source of origin. Although the convention in Paris did not effectively use or describe the term "Geographical Indications", it laid down the path for the inclusion of such forms of protection under intellectual property rights.

2. THE MADRID AGREEMENT (1891):

The Madrid agreement or the Madrid protocol was signed in the year 1891 and in its provisos mentioned under the Agreement for the Repression of False or Deceptive Indications of Source of Goods of 1891[70], outlined the scope of protection under the following heads:
1. Prevent the deceptive use of indications of source
2. Include a genericity exception and set a special regime for wines

[70] https://www.wipo.int/treaties/en/ip/madrid/#:~:text=According%20to%20the%20Madrid%20Agreeme nt,importation%20must%20be%20prohibited%2C%20or

The fourth article of the agreement comprised of two principles which read “The courts of each country shall decide what appellations, on account of their generic character, do not fall within the provisions of this Agreement, regional appellations concerning the source of products of the vine being, however, excluded from the reservation specified by this Article.” (Article 4 of the Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods)

The same year, 1891, the Madrid Agreement Concerning the International Registration of Marks was signed, which since has been used by many countries to protect GIs as collective, certification, or guarantee trademarks. Since then, the world has been divided between those countries that protect GIs through an ad-hoc system, and those that use their trademark law.

3. THE LISBON AGREEMENT (1958):

The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration was signed in the year 1958 ensuring that its member countries received adequate protection in the form of safeguarding of their appellations of origin to their respective countries.

Geographical Indications were described for the first time in this agreement, however the suited term in use still remained “appellations of origin”. Building on the early milestones set in the Paris convention and the Madrid agreement, appellations of origin were protected in a dedicated Treaty for the first time under the 1958 Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, administered by the World Intellectual Property Organization (WIPO).

This Agreement, however, only entered into force in 1966 and has had limited country coverage. With Macedonia joining in October 2010, the Lisbon Agreement counts 27 Contracting Parties (with five additional signatories with pending ratification). Its first signatories, in 1966, were Cuba, France, Haiti, Israel, Mexico, and Portugal.

Article 2 of the Lisbon Agreement stated “Appellations of origin are the geographical name of a country, region, locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors.”

The most prominent instrument under the Lisbon Agreement is a registry of appellations of origin protected in the territories of all contracting parties, a feature that proponents of an increased level of protection for GIs. In 2011, the Agreement covered 795 protected appellations of origin, 508 of which belonged to France (63.9 percent of the total, down from 81.2 per cent in 1968). Seven contracting parties had not registered a single appellation of origin (Burkina Faso, Congo, Gabon, Haiti, the Islamic Republic of Iran, Nicaragua, and Togo); while Israel and the

Republic of Moldova had one registered appellation each (Jaffa oranges and Românești red wine respectively). Wine accounts for approximately two-thirds of GI registrations, followed by spirits, cheese, tobacco, mineral water, and beer and malt. Registrations demonstrate a pattern of specialization of certain countries in particular sectors (Escudero 2001): appellations in wine, spirits, and cheese are led by France; all registrations for tobacco are from Cuba; and the Czech Republic specializes in mineral water and beer and malt. Further examples of AOs covered by the Lisbon Agreement are: Porto, Cognac, Pilsen, Champagne, Bordeaux, Tequila, Habano cigar, Jerez, and all the French Appellations d'Origine Contrôlée. Non-food products have also been registered, such as Talavera handcrafts (Mexico), Cholet cloth (France) and Bohemia glass (Czech Republic) (WIPO 2009).

4. TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (1995):

The TRIPS agreement signed in 1995 focused on the protection of intellectual property worldwide and included Geographical Indications as a protection measure for IPR. The provisions that were laid down in accordance with the use of GIs mandated that the member states of the Trade-related Aspects of Intellectual Property Rights treaty are required to provide the mechanism that enables interested parties to prevent untruthful and misleading uses of geographical indication. For instance, tea growers in Nepal may not call their tea Darjeeling tea or Kangra tea, even if the tea grown is genetically identical.

The literal truth is not a defence if geographical indication misleads the public. Article 23 of the trade-related aspects of intellectual property provides for additional protection for a geographical indication of vines and spirits. It includes three important elements, which are:

1. The provision in the legality means for interested parties to prevent the use of a geographical indication identifying wines and spirits not originating in the place indicated by the geographical indication.

2. The possibility to refuse or invalidate the registration of a trademark for vines or spirits that contains or consists of a geographical indication identifying wines and spirits is at the request of an interested party.

3. There would be a possibility to call for future negotiations aimed at increasing protection for individual geographical indications for wine and spirits.

Under Article 24[71] of the TRIPS agreement, an exception is provided which expressly reserves the right to use geographical indications that are identical with the term customary in common

[71]https://www.wto.org/english/docs_e/legal_e/27-trips_04b_e.htm

language. The name has become a common or generic term. For instance, cheddar now refers to a particular type of cheese not necessarily made in Cheddar of the United Kingdoms.

The TRIPS agreement has been widely regarded as the most effective binding agreement on the protection of intellectual property till date and continues to undergo significant changes and development.

5. WORLD INTELLECTUAL PROPERTY ORGANIZATION (1967):

The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge was an international legal instrument formulated to tackle the problem of biopiracy. The WIPO and the WTO, although separate identities, were bound by the TRIPS agreement which was a multilateral agreement within the scope of the world trade organisation that addressed intellectual property rights and was a result of the Uruguay round of negotiations within the GATT.

The Uruguay Round of GATT negotiations began in 1986, at the same time as India's development policy-making process was in a watershed. As a paradigm shift in its policy by the time India launched its large-scale economic reform package in 1991, the Uruguay Round of negotiations were going well, paving the way for Marrakech in 1994 and the World Trade Organization was established. The NDA remained a cautious and somewhat dysfunctional player during the early years of the Uruguay Round of negotiations, given its longstanding legacy of growth strategy and inward protectionist trade policy.

However, in Doha, India wanted to patronize other products beyond wine and spirits under the Doha Geographical Indication (G.I.). Many countries wanted this high level of security to be seen as a negotiation for other products, as they see a higher level of security to improve their products by separating their products from their competitors more effectively and are "belittling" other countries. Some others opposed the move, and the debate includes the question of whether the Doha Declaration provides a mandate for negotiations. Those opposing the expansion argue that the current (Article 22) level of protection is sufficient. They warn that providing augmented security will be a burden and disrupt existing legitimate marketing practices. India, along with a host of other similar countries, pressed 'expand the scope of Article 23[72] to cover all categories of goods. However, countries such as the United States, Australia, New Zealand, Canada, Argentina, Chile, Guatemala and Uruguay are strongly opposed to any 'expansion'. The 'expansion' issue formed an integral part of the Doha Work Program (2001). However, as a result of the wide divergence of views among members of the World Trade Organization, there has not been much progress in negotiations, and implementation remains an 'outstanding implementation issue'.

[72] ID.

3.2.3 RECENT INTERNATIONAL DEVELOPMENTS ON GIs:

There has been a number of recent developments in the usage and protection under geographical indications in the international forum, these developments have been described as follows:

1. Geneva Act of the Lisbon Agreement (2015):

The Geneva Act extends that protection to geographical indications alongside appellations of origin, to better take into account existing national or regional systems for the protection of distinctive designations in respect of origin-based quality products. In addition, it introduces maximum flexibility with respect to how the protection standard of the Act may be implemented (i.e. through a *sui generis* appellation of origin or geographical indication system or through the trademark system).[73]

2. EU-China Agreement on Geographical Indications (2020):

The agreement aims to ensure a high level of protection to the EU Geographical Indications listed in the annexes in the European Union and in China, and promote cultural activities between the two countries by offering full cooperation in terms of protection offered in the respective nations.

3. Global conference on geographical indications, Rome[74] (2025):

The international conference “Worldwide Perspectives on Geographical Indications: Innovations and Traditions For Sustainability" was held in the month of February. The highlights of the conference included the recognition of GIs as potential tools for safeguarding cultural identities and traditional know-how practices of various communities as well as establishing positive impacts on the environment and social levels. One of the other key highlights was the emphasis on the youth who would have the option to live in their communities and territories, not having to migrate because of the newer opportunities that these GIs can bring in form of economic sustainability.

4. Worldwide Symposium on Geographical Indications, Zimbabwe (2025):

The 2025 edition of World Symposium of Geographical Indications is organised jointly by the WIPO and the Companies and Intellectual Property Office of Zimbabwe (CIPZ), with the support of the African Regional Intellectual Property Organization (ARIPO).

---

[73] https://www.wipo.int/treaties/en/registration/lisbon/summary_lisbon-geneva.html
[74]https://www.fao.org/newsroom/detail/global-conference-on-geographical-indications-opens-in-rome/en

3.3 INTERNATIONAL PERSPECTIVE ON INDIGENOUS COMMUNITY RIGHTS:

Historical accounts trace the inception period for the global recognition of indigenous community rights to the Renaissance movement timeline in Europe, where for the first time the discussions on representing suppressed indigenous communities had taken place with a view to understand how indigenous communities were getting affected and what measures can be undertaken to tackle this issue. Various governments around the world have undertaken different measures and protocols to acknowledge, include and tackle the issues of these communities. It is also observed that multiple indigenous groups have merged together historically and even to this date in order to jointly seek and enhance their communal rights. There have been significant steps taken in the form of historic Declarations, Treaties, Conventions and Charters in relation to the promotion of indigenous community rights, they are explained as the following:

1. UNITED NATIONS (WORKING GROUP ON INDIGENOUS POPULATIONS, 1982):

The Working Group on Indigenous Populations (WRIP) was a subgroup functioning under the United Nations in matters relating to human rights and global promotion and was devised as the medium through which the UN included, acknowledged and represented deprived ICs. The United Nations Commission on Human Rights established the United Nations Permanent Forum on Indigenous Issues (PFII) in the year 2000 as an overseeing body working for the best interest of these communities. The period between 2005-2012 was classified as the second international decade of the world's indigenous people with a renewed interest in fostering global support and help from all member countries, in order to strengthen these indigenous communities.[75]

A. UNDRIP (2007): The United Nations Declaration on Rights of Indigenous Peoples was formally adopted by the United Nations general assembly in 2007 after a lengthy set of discussions and strategy formulation. This was historic in the sense that the world had finally come to terms that indigenous community rights were relevant in the society and this non binding treaty was the first step towards outlining the individual and collective rights of ICs and also the rights in relation to cultural identities, language, land, employment and other fields.

B. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966): Overseen by the United Nations, the ICCPR was formulated in the year 1992 to facilitate increased coordination and commitment of all nations towards recognizing individual and collective rights. The point to be noted is that rights pertaining to self determination are highlighted which also is one of the most important rights in relation to indigenous peoples along with fundamental rights.

[75] Indigenous rights, https://en.wikipedia.org/w/index.php?title=Indigenous_rights&oldid=1276430161 (last visited Mar. 19, 2025).

The international covenant on economic, social, and cultural rights was also adopted in the same year and came into force 10 years later, focusing on the granting and recognizing of cultural rights which play a significant part amongst suppressed indigenous communities.

2. HISTORIC CONVENTIONS - INTERNATIONAL LABOUR ORGANISATION (1919):

A. ILO, CONVENTION 107: The ILO had formally recognized the long standing situation of the tribal, semi tribal and indigenous people around the world and in the year 1957, developed its first international instrument directly devoted to the rights of these communities, this was known as the indigenous and tribal peoples convention (convention no 107). The promotion of indigenous communities into the broader society and helping them in developing their cultural interests was the primary objective of this convention along with the set of rules outlined in its 37 articles highlighting the various areas of development including land, recruitment and conditions of employment, vocational training and handicrafts and rural industries, social security and health, education and means of communication.[76]

B. ILO, CONVENTION 169: The ILO Convention 169 was the formal upgrade from the previously existing convention 107, as some of the provisions were considered outdated and needed reform in certain sectors. This was a formal legally binding instrument which, once ratified by all the states, was to be legally incorporated in the existing bodies governing and overseeing indigenous communities. Although many of the existing articles had been renewed from the last convention, the focus remained on targeting the issue of forced assimilation and helping these communities in developing their own institutions which would be represented by members belonging to their communities. The ILO played a crucial part in the development of indigenous growth in the last decade by enforcing binding provisions on member nations which otherwise had withdrawn from performing operations regulated under non binding instruments drafted by other bodies of the United Nations like the United Nations Declaration on Rights of Indigenous Peoples.

C. REGIONAL CONVENTIONS CONTEXTUALLY INVOLVING INDIGENOUS PEOPLES:

1. African Charter on Human and Peoples' Rights (1981)
2. European Charter for Regional and Minority Languages (1992)
3. Asian Indigenous Peoples Pact (1992)

The following list of regional conventions do not explicitly describe the scope of indigenous rights, however they have been contextually added in the articles outlined in these conventions, adding meaning to the scope of indigenous rights protection.

[76]https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107

3. INTERNATIONAL GOVERNMENTAL, NON-GOVERNMENTAL ORGANISATIONS, POLITICAL GROUPS: ENFORCING INDIGENOUS COMMUNITY RIGHTS[77]

A. CONGRESS OF ABORIGINAL PEOPLES (1971): The CAP was founded in 1971 by the Canadian Aboriginal Organisation and focused on the protection of the aboriginal people living in Canadian offshores, integrating them into the society by working closely with the department of aboriginal affairs and northern development canada in matters relating to trade employment opportunities and other higher income jobs.

B. COORDINATOR OF INDIGENOUS ORGANISATIONS OF THE AMAZON RIVER BASIN (1984): The COICA was founded in 1984 in Lima, Peru and is an integrated organisation consisting of nine nationally recognised amazonian indigenous organisations namely the AIDESEP, APA, CIDOB, COIAB, CONFENIAE, ORPIA, FOAG, OIS, Organisations of the Indigenous towns of the Colombian Amazonia. The focus of these groups are primary development of indigenous lifestyle and protection of human rights in specifically mentioned areas. Language development and indigenous education including the scope to teach subjects in native indigenous languages are a few of the key areas highlighted under the COICA.

C. CONFERENCE OF AUTOCHTHONOUS ETHNIC NATIONALITIES COMMUNITIES DEVELOPMENT ASSOCIATIONS (CONAECDA): An organisation working as a coalition of indigenous communities of central and northern Nigeria focusing on language development, indigenous land rights and community development.

D. ARCTIC COUNCIL (1996): The organisation was formed to tackle the issues faced by the arctic government and the indigenous communities in the arctic circle.

E. FUNAI (1967): The Organisation was developed to protect the best interest of the Amerindian populations and help them in community development by means of proper representation by the Brazilian intergovernmental agencies.

F. DEPARTMENT OF ORANG ASLI DEVELOPMENT (1954): The JAKOA is a Malaysian governmental agency formed to oversee the development and promotion of rights in the Orang Asli tribe (oldest inhabitants of peninsular malaysia).

G. NATIONAL COMMISSION ON INDIGENOUS PEOPLES (1997): The NCIP is a governmental agency working for the welfare development among indigenous communities of the Philippines.

---

[77] Indigenous rights, https://en.wikipedia.org/w/index.php?title=Indigenous_rights&oldid=1276430161 (last visited Mar. 19, 2025).

3.3.1 RECENT INTERNATIONAL DEVELOPMENTS ON INDIGENOUS COMMUNITY RIGHTS:

There has been a limited number of developments regarding the protection and promotion of indigenous community rights recently, these developments have been discussed as follows:

1. WIPO GRATK TREATY (2024):

The WIPO GRATK (WIPO treaty on intellectual property, genetic resources and associated traditional knowledge) was formally adopted in the month of may, 2024 and was a result of the work done by the intergovernmental committee on intellectual property and genetic resources, traditional knowledge and folklore (IGC/IGC-GRTKF) in the field of intellectual property protection. The development of this historic treaty was done over a period of three years and has been considered by many to be the bridge between indigenous communities and development of their collective rights, as it promotes transparency which has not been adequately dealt with in the previously drafted legal instruments and also guarantees just and equitable access to these various resources.[78]

2. BBNJ AGREEMENT (2023):

The agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction or simply the BBNJ agreement was drafted in the month of march and came into force in september, 2023. The agendas under the agreement focused on the conservation of marine biodiversity and fair and equitable sharing of benefits along with environmental assessment reports. Marine indigenous communities which heavily depend on resources obtained from this ecosystem are included in the benefit sharing program for profits obtained from the sale of biochemicals and food supplements and other products which are produced by utilizing marine resources.

3. EMRIP (2021):[79] The 14th session of the Expert Mechanisms on the Rights of Indigenous Peoples was conducted in the month of April and discussions involving targeted regional developments were undertaken keeping in mind the specific requirements of select indigenous tribes belonging to separate communities and lifestyles.

---

[78]WIPO, Indigenous Caucus of the WIPO GRATK Diplomatic Conference (2024-05-28). "Indigenous Caucus Closing Statement: International Treaty on Intellectual Property, Genetic Resources & Associated Traditional Knowledge; May 24, 2024"

[79]UN.,https://www.ohchr.org/en/events/sessions/2021/14th-session-expert-mechanism-rights-indigenous-peoples

3.3.2 CASE STUDIES ON GI TAGGED PRODUCTS MADE USING TRADITIONAL KNOWLEDGE (REGION AND PRODUCT WISE):

1. CASE STUDY 1 (PARMESAN CHEESE, ITALY):

AREA OF ORIGIN: Parma, Reggio Emilia, Modena and Bologna, Mantova (Northern Italy)

DISTINCT FEATURES: Non pressed technique of making, can be quickly digested, minimum aging procedure requires 12 months, 100 percent natural dairy with zero additives, distinctively rich in mineral and nourishment content.

TIMELINE OF OBTAINING TAG: The duration for obtaining international legal protection is:

1950s- earliest attempt at obtaining legal protection.
1951- Stresa Convention on the use of Appellation of origin and denominations of cheese.
1955- Issue of executive number 1269 by Government of Italy stating that production of cheese in areas mentioned above only qualified to get labelled as parmesan
1958- Effect of the conclusion of the Lisbon agreement
1969- Parmigiano Reggiano registered as AO (Lisbon Agreement)
1996- Enhanced as a Globally recognised product

The Parmesan or the Parmigiano Reggiano cheese is renowned all over the world as one of the most distinctive forms of dairy to be produced and distributed all around the world, and this is heavily attributed to the traditional procedure of developing this form of cheese. It was said to be produced by the Benedictine and Cistercian monks of Italy, however there are some reports which link the history of this cheese to France, although there is no strong evidence to back it. The production and the development of this product makes it one of the most globally exported dairy products all around the world and at the same time have resulted in fraudulent imitations by other producers in the market, leading to the need for legal protection to safeguard it.

The formation of the consortium named Conzorzio del formaggio parmigiano reggiano in 1934 took place in order to tackle the issue of imitation by second hand producers in the market. It has since played an active part in increasing consumer awareness regarding recognizing originality over duplicate dairy products using the same name in that area. A significant number of milk and other dairy products have been protected and promoted by the consortium of dairy farmers in this province who safeguard the name of the product.

The parmesan had qualified to get protection under GI because it could be linked back to its place of origin which contributes significantly to its production and also adds distinctiveness due to method of production and ecological factors. However the historic linkage of this product

suggests that calculated methods of production were employed in order to facilitate and generate the uniqueness and now it could be easily replicated if provided with the same traditional knowledge, although the environmental factors play a crucial part in the development process.

LEGAL ISSUES: The issue with using GIs is that it often fails to provide the same level of protection to similar goods but in different parts of the world due to the nature which helps consumers be aware of brand value and distinct products, but fail to qualify as the same in other parts of the world where these products are not protected in the same way.

The development of a sui generis system of protection is offered in many countries whereas distinctive symbol marking or trademarking is employed as means of protection in other parts of the world. This was duly undertaken by the consortium which employed a trademark strategy in order to protect the brand name from potential misuse and misappropriation. This trademark strategy is considered to be effective in combating unlawful imitation and was obtained for different stages of production under the Madrid system for the International registration of Marks. The consortium had faced a challenge in dealing with unauthorized use of brand name and identical trademarking by a mexican company which had named the product similarly to the original product and affixed identical marks and an injunction was granted for the trademark registration in mexico which under the definition of trademarks included (a previously well established and publicly reputed trademark). This helped the company from suffering from duplicate branding in Mexico.

POSSIBLE SOLUTION: One of the issues regarding GIs is non uniform recognition in different parts of the world with different registration protocols and guidelines as specified by the respective governments of the country of origin, it leads to decreased product valuation due to being labelled as generic in some parts of the world.

The Lisbon agreement does not have a provision for common registration of Geographical Indications which is also hampered by inadequate participation from member countries who are a part of the WIPO. This can be tackled by the initiation of a common global registration portal which can be undertaken by the WIPO provided it offers more lucrative incentives to member nations who can help in undertaking policies effectively adhering to one globally accepted GI registration portal. Product differentiation on the basis of reputation, quality and area of origin now plays a huge difference in impacting commercialisation and it is evident that Geographical Indications have provided a level platform for both producers and traders selling products which can enhance marketing options and build a commercial name for the product and the area of origin which gets highlighted due to it unique environmental and cultural identity. The development of a coordinated legal policy mechanism between these organizations and ratification by member states can help reduce the gap between recognition of GI tagged products and their protection under various state laws in different parts of the world.

2. CASE STUDY 2 (HABANOS CIGAR, CUBA):

AREA OF ORIGIN: Vuelta Abajo, Semi Vuelta in Pinar Del Rio Province (Western Cuba)

DISTINCT FEATURES: Strong flavour profile, premium quality made using five different kinds of tobacco and leaves.

EXPORT OF TOTAL PRODUCTION: 90%

REGISTRATION: Trademark, Geographical Indicator

APPELLATION OF ORIGIN: 15
TRADEMARK: 62
CERTIFICATION MARKS: 2

The Habano cigar of Cuba is considered to be one of the most top of the line premium tobacco that is exported to all parts of the world, there are certain distinctive features which are attributed to the environmental resources found in the cuban ecosystem, these distinctive features add a strong palette to the cigar that is produced in these areas. The type of soil in Cuba along with other favourable climatic conditions, plant species and traditional Cuban knowledge of tobacco processing has added to the increased rate of exports in tobacco manufacturing industries in these areas, the production is as special as the tobacco itself because it involves the processing of five different kinds of leaves to manufacture the end product.[80]

THE SUPPLY CHAIN: The supply chain for Habanos cigar is explained as follows:

LEADING SUPPLIER: Corporation Habanos- Cubatabaco, a Cuban governmental enterprise (50%), Altadis SA, a French-Spanish company (50%).

Traditional curing methods are applied on hand picked leaves after local farmers cultivate the plants and then these are sorted for the first fermentation procedure, followed by tempering of each category of leaves to be ready for factory processing. Habanos is the location where most of the tobacco manufacturing factories are presented and these are produced under strict quality control standards and using an infusion of traditional knowledge on cigar making and modern machinery to produce the finest brands of tobacco.

TRADITIONAL KNOWLEDGE INVOLVEMENT IN OBTAINING GI: The usage of traditional knowledge in the initial process of cigar making involves a 200 year old tradition of

[80] El Benni, Nadja & Reviron, Sophie. (2009). Geographical Indications : review of seven case-studies world wide.

hand rolling techniques used in the Cuban province and unlike other cigars, the original Habanos cigar is one hundred percent cuban, which is unlikely to be seen in other parts of the world which exports cigars globally. The handpicking of leaves and the soil on which the plants are cultivated helps consumers easily identify the originality of the product because of the distinct features of the plant.

REGISTRATION AND PROTECTION AS A FORM OF IP:

List of trademarks are differentiated on the basis of global trademarks which protects it around the world, multilocal trademarks which can be found in most countries, local trademarks for selective countries and niche trademarks which are linked to the local community and geographical factors. The registration and protection of the product is secured under a dual form of protection and marketing also in the form of trademark and certification marks and as a geographical indicator as well.

TIMELINE OF REGISTRATION: [81]Havana was at the risk of becoming a generic term for the usage of high quality tobacco all around the world due to the possibility of linking good grade tobacco to the original geographic location, measures were taken in order to combat this problem and involved the implementation of the National Warranty Seal of Origin law (1912) which protected products from Cuba, followed by the implementation of the National Commission of Advertising and the defence of Habanos Cigars (1927).

The Lisbon Agreement played a key role in offering international protection after which a significant number of AOs were secured. It was followed by the proposal to introduce Geographical Indications as a mode of extra protection and to increase global recognition. The other steps that were involved was symbol marking which was redesigned and strategic planning to enhance global trade and also establish a uniform marking procedure in order to combat infringement in other languages.

CHALLENGES INVOLVED: The challenges that are involved in protecting Habanos Cigar are Combating infringements and registration requests and the recognition and protection of Cohiba trademark

CONCLUSION: The case study on the production of Habanos cigar in Cuba reflects on the following things: deep rooted cultural significance which makes preservation of Cuban heritage a priority, usage of traditional knowledge enhances high standard of quality and authenticity and socio economic effects linked to positive sustainability in lives of the tobacco producers; all of which accumulates to make it one of the most renowned and originality labelled GI tagged products around the world.

[81] ID. at 53

3.3.3 CHAPTER CONCLUSION:

"On this day, let us remember that Indigenous peoples are actors of change, guardians of natural resources and carriers of unique worldviews, knowledge and skills. We must protect their traditions and ways of life – while respecting their rights."[82]

- Audrey Azoulay
(Director General, UNESCO

The conclusion of this chapter reflects on the overall perspective of the world regarding the prospect of safeguarding traditional knowledge and traditional indigenous knowledge all around the world. The conventions that have taken place historically are a testament to the fact that the recognition of the importance of preserving traditional knowledge has increased not only in the aspect of providing sustainability to various indigenous communities but to eventually establish institutional governance within these groups.

In recent years, there has been a global surge in the registration of GIs all around the world, although the aspect of using GI as an IP protection tool to safeguard traditional knowledge has its own limitations, it can be used as a mode of protection by broadening the scope of involvement of the original producers and rewarding them adequately, by placing them at the center of governance these communities will be represented by their own members who along with coordinated institutional support can help navigate through this process. The registration mechanism needs to be flexible with some counties following draft sui generis models to protect their traditional knowledge, the same has not been possible on the global level due to non ratification by many member nations.

However strengthening of IC rights has been evident in the last decade with global conventions, treaties and charters specifically outlining the need to preserve and fairly represent marginalized communities. Under the supervision of the United Nations and its subsidiary bodies, the emphasis on indigenous representation on international levels has improved and mandates the involvement of various indigenous leaders from all around the world.

Legislations have been tailored to suit the needs of these communities, however the scope of GIs under Intellectual Property Law is yet to meet its full potential as it continues to face recurring issues like non flexible registration procedures and the absence of an universal register of GIs protecting traditionally made commercial goods all around the world. These issues are expected to be tackled with renewed legally binding mechanisms and improved policy making.

[82] UNESCO, International Day of World's Indigenous Peoples, (Mar 22, 2025, 6:22 PM), https://www.unesco.org/en/international-day-worlds-indigenous-peoples

CHAPTER 4: THE NATIONAL PERSPECTIVE:

4.1 INDIAN PERSPECTIVE ON TRADITIONAL KNOWLEDGE:

India is renowned for its rich cultural diversity and is considered to be the flag bearer of distinct cultural representation all around the world, these unique cultural identities which comprises of multiple states and communities also include the millions of indigenous people who have been residing here for several ages, these communities comprise of marginalized tribal indigenous groups and non tribal indigenous groups as well. The common factor between both is the existence of traditional knowledge and traditional cultural expressions that have existed and been passed down from one generation to the other. In India there are no specific laws that actively protect traditional knowledge, however the existing legal mechanisms contain provisions that are in accordance to providing some form of protection to indigenous knowledge and associated goods made using such knowledge. One of the key provisions that outline the broad scope of fundamental rights in india that is guaranteed to all the citizens of india is the right to protecting the cultural identity; be it an individual or a community, both has the fundamental right to conserve the local language, cultural expressions and scripts of the region where they reside. In light of the above discussion, the legal mechanisms that have been undertaken by the government of India that provides contextual and limited protection to traditional knowledge, have been discussed.

4.1.1 INDIAN LEGAL MECHANISMS CONTEXTUALLY PROTECTING TRADITIONAL KNOWLEDGE:

1. COPYRIGHT ACT, 1957:

The copyright act of 1957 doesn't provide any direct protection to traditional knowledge of indigenous communities, it protects the original literary work of a person or authorship from being infringed by other parties. These literary works need to be documented as part of the requirement for obtaining copyrightability claim by the author unless it happens to exist in an intangible undocumented form which is relatively harder to offer protection to. Traditional cultural expressions along with associated traditional knowledge are relatively difficult to offer protection under copyright as it faces the issue of documentation, these cultural expressions have been orally passed down from one generation to the other which continues to preserve it and use it to sustain their lives. Indigenous communities using these expressions cannot claim such rights as they are not recognized as private rights and community rights are not guaranteed under the copyright act, 1957. Indigenous folklore can obtain certain rights under article 38 which defines performers rights, but it is only limited to protection under live visual art which is a very small part of TCEs. This legal mechanism does not provide full proof protection of traditional knowledge, but only protects a part of it.

2. PATENTS ACT, 1970:

The patents act was incorporated in 1970 and since has been amended twice in 2002 and 2005, the new amendments outline certain provisions that safeguard indigenous traditional knowledge. The 2005 amendment of the act protects the misuse of traditional knowledge by obliging the applicants of patents to disclose the biological resources that have been used in the invention, upon investigation if a direct link is established between the invention and the use of associated traditional knowledge of using region specific biological resources then such a grant will be dismissed by the patent grants officer.[83]

Traditional knowledge when granted patentability in the form of invention requires the disclosure of such protected knowledge systems, making them public knowledge and ultimately hampering indigenous cultural identities. The amendment specifies the grounds for rejection of such patents for which wrongful sources have been tagged by the inventor if he misinforms the registry about the original source of the patent and the biological resources involved in it. The invention has to be novel and cannot be an extension and amalgamation of several resources used together with associated TK to produce something. Along with the wrongful information clause, the clause mandating non disclosure of regions from which TK has been obtained is also mentioned, protecting these indigenous communities and helping them achieve adequate share of benefits.

3. PLANT VARIETIES PROTECTION AND FARMERS RIGHTS ACT, 2001:

The PPVFR, 2001 has been effective in regard to protection of farmer rights in association with original creations (breeding) to produce new varieties of plants and other plant based products which have varying commercial value. Traditional indigenous medicinal knowledge obtained from historical engagement with ancient plants and surrounding environment is prevalent in most indigenous and tribal communities in India and around the world. These generational plant based knowledge systems have since been developed by the next generation of indigenous people who can be recognized as eligible for private rights if it is developed by one person or community rights are granted for collective engagement of the whole community in developing that plant breed. The acknowledgement of the novel use of traditional knowledge in this plant breeding process grants them exclusive rights as the farmers/inventors are directly involved in the process of using, developing and sustaining these knowledge systems for generations. Access to these species of plants automatically grants benefits to these producers as part of a fair and equitable access and benefit program, providing them with incentive to put to use this traditional knowledge for development of plant medicine which has a higher commercial value compared to benefits derived from granting access to study newly bred plant varieties.

[83] Badlani Gautam, Traditional Knowledge in IPR, iPleaders Blog, (March 23, 2025, 9:43 PM), https://blog.ipleaders.in/ipr-vis-vis-traditional-knowledge/

4. SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST) RIGHTS ACT, 2006:

Traditional knowledge protection and biodiversity are synonymous in nature as without the conservation of biological resources, traditional knowledge obtained using them is null and void. It is in this regard that the STTFD Act was incorporated with a focus on protecting forest land and other biological resources obtained from them, where there is a significant number of scheduled tribes living from generations. Green colonialism is a global phenomenon where forest lands comprising tribal dwellers and other communities are overtaken as part of government initiatives and are subjected to clearance or complete removal, directly violating the land rights that are naturally guaranteed to these communities, taking that into account this act mandates the protection of such natural lands which are also considered as cultural lands of these communities.

Although it is difficult to directly protect traditional knowledge in the context of protection under IPR, a secondary mode of protection is offered here in the form of providing protection of the right to use these natural lands and includes cultivation, development, wildlife protection and other activities. This act indirectly lays down the platform for indigenous communities to continue engagement with their historical lands which have helped them develop associated traditional knowledge and hence give them a platform to use these inventions as products which have commercial value in the market. The nature of these rights as the name suggests is collective as the whole community continues to engage with the surrounding environment.

5. THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION ACT), 1999:

A Geographical Indication links the origin of a specific product to its area of origin meaning that it helps the consumers differentiate between generic products and products which have obtained a certain reputation due to its distinctive characteristics which have developed in a specific geographic location using specific traditional practices of the producers who hail from that region. GIs are considered to be the most effective tools to protect traditional knowledge however the registration procedure under this act makes it difficult for non represented indigenous communities to navigate through it.

The protection mechanism under geographical indications provides benefits to both the producer and the trader and grants community rights to the people residing in the region from where the product has been obtained by the trader or development of the product using traditional knowledge by the original inhabitants of the place. The GI tag once obtained protects the original producer by preventing misappropriation by other producers who might have indulged in infringing that product.

6. NATIONAL INNOVATIVE FOUNDATION, 2000:

The NIF was founded in the year 2000 as a subbody of the Department of Science and Technology under the Government of India. The focus of this foundation was to help India grow its innovation sector by strengthening and adding new ground level inventions both in the scientific and the non scientific sector. Traditional knowledge related innovations are a part of this foundation as across the many indigenous communities that exist in India, inventions conducted for sustainability was prevalent in all of them, although not groundbreaking and scientific in nature, these are still considered to be novel inventions from these communities and was eligible to receive material or non material incentives for their creations.

The NIF has been instrumental in recognizing and helping these communities achieve sustainability by rewarding them with credibility from other people and institutions, and helping them in navigating the process of intellectual property protection. The NIF as the name suggests is a foundation which is usually involved in direct contact with tribal/non tribal communities who have been using their associated traditional knowledge and helping them in preserving their intellectual creations and bringing them under the regime of intellectual property rights. In short this foundation has been instrumental in bridging the gap between traditional communities and their innovations which are yet to be recognised by other communities. The services that are offered by the NIF include pro bono tie ups with IP firms, research facilities and product development programs using the best government provided resources and facilities.

7. NATIONAL MANUSCRIPT MISSION, 2003:

India is a land of great historical heritage and with the advent of time, the tales of history would have perished if not for the efforts made to preserve and find lost manuscripts which depict the historical chronicles of the country. The NMM was one such organisation formed under the governance of the ministry of tourism and culture that focused on the restoration and preservation of ancient manuscripts. It is to be noted that mentions of traditional knowledge used back in time is prevalent in most of the texts that are available to the public, and are also a part of ancient manuscripts which are the evidence of the fact that TK has been historically acknowledged in India as part of its culture.

The contents of these manuscripts have included ancient texts, languages, traditions, practices, which form an integral part of associated traditional knowledge along with the mention of preserved traditional cultural expressions. The NMM has been instrumental in not only preserving these ancient texts but helps these communities which have mentions in the historical texts, to be protected from commercial exploitation which occurs in the form of biopiracy, infringement and other ways. The mission is overseen by regional teams which are divided between all the states in the country.

8. TRADITIONAL KNOWLEDGE DIGITAL LIBRARY, 2001:

The TKDL established in 2001 is an online digital library or simply a digital database consisting of information regarding medicinal plants and other herbs which are associated with traditional knowledge and was created to tackle the recurring issue of biopiracy of Indian plant patents by other countries and sellers across the world. This was an joint initiative undertaken by the CSIR (Council of scientific and industrial research), Ministry of science and technology, and department of Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy (AYUSH) and overseen and initiated by the Government of India.

The need for such an initiative was prompted by the lack of documentation of indian traditional knowledge and was assigned as an objective of the taskforce to initiate documentation procedure of several TK related patentable products and at the same time tackle the biopiracy issue which was prevalent, especially in the United States of America where patent references were found on indian origin plants, along with notable products like turmeric and basmati rice. This was a direct breach into the TK related product valuation in the indian market without having adequately compensated the original producers who belong to specific indian communities. The TKDL was instrumental in documenting TK from ancient literature, conversion of such texts into other foreign languages, TK documentation in relation to ancient medicinal knowledge obtained from various sources originating from different parts of India, information added from more than 150 ancient books relating to ayurveda and other studies, information relating to plant medicines and other formulations.[84]

The main purpose of the TKDL was to combat biopiracy and misappropriation which falls under the category of defensive mode of protection and not a positive form of protection. A defensive form of protection safeguards the inventor from being exploited by other users instead of using that product for direct commercial growth under its own name and the absolute right of the producer which classifies as a positive form of protection. The overall usefulness of TKDL is relatively higher in the sense that it provides a base for the documentation of traditional knowledge which was previously non existent so to say, however documentation alone cannot reap benefits for holders of the TK but ensuring that these are made available for scientific or commercial purposes after having acknowledge the original holders of the knowledge systems and compensate them as part of benefits either in the form of monetary incentives or non monetary incentives. The TKDL has and is still undergoing significant developments adding new varieties of ancient plant medicinal varieties and other forms of TK.

---

[84] Sen, Saikat & Chakraborty, Raja. (2014). Traditional Knowledge Digital Library: A distinctive approach to protect and promote Indian indigenous medicinal treasure. Current science. 106. 1340-1343. (2025), https://www.researchgate.net/publication/272483847_Traditional_Knowledge_Digital_Library_A_distinctive_approach_to_protect_and_promote_Indian_indigenous_medicinal_treasure

9. BIOLOGICAL DIVERSITY ACT, 2002:

The BDA was enacted in the year 2002 by the parliament of India with a focus on the protection and conservation of biological and environmental resources and was enacted in accordance with the provisions of the conservation of biodiversity act to which India was a signatory. Apart from being effective in conservation of resources, the act also monitored access and benefit sharing in relation to these genetic resources and associated traditional knowledge.

4.1.2 LIMITATIONS AND CHALLENGES OF EXISTING LEGAL MECHANISMS:

In light of the above discussion, there are a number of persisting challenges in relation to the working of the existing legal mechanisms in India which continues to offer defensive modes of protection which itself is a limitation. The other challenges that surface can be differentiated on the basis of degree of protection, nature of protection, adequate compensation and absolute protection. The constitution of India does not have any provisions which directly safeguard traditional knowledge, however it does contain provisions relating to self governance within these communities and subsequently fulfills the right of indigenous communities to self determination. The limitations that have been identified are primarily the scope of the existing local laws which are yet to get fragmented and coordinated according to the specific needs of the state from where the traditional knowledge source has been obtained.

The TKDL although offers a base for the research and findings on traditional knowledge, it is only limited to the protection of plant medicines, genetic plant resources and videography of yogic exercises. The gambit of traditional knowledge goes beyond the scope of traditional medicines and includes a whole spectrum of traditional culture, which often is not available for protection due to its undocumented nature. The introduction of multiple bases for research, storage, and acknowledgement for other categories of usage of traditional knowledge should be undertaken by the central and the state government.

Conservation of biodiversity is a priority for prolonged protection of TK as the two share a direct relationship, the scope of the biological diversity act should be broadened in order to counter the challenges faced in the form of destruction of ecological resources. Multiple rights in relation to these indigenous communities are violated including the exploitation of their natural homes. Apart from that, challenges continue to persist in the form of IPR protection and how indigenous traditional knowledge protection faces ambiguity issues because of the existing complex registration and post registration protocols. The international frameworks like UN, and the WIPO have laid the guidelines for the member nations to follow, but restrictions come in the form of individual member nations not being able to ratify or implement such guidelines completely because of political, economical, and other bureaucratic challenges in their respective countries. India should work towards a sui generis model of protection which can cater to individual states.

4.2 INDIAN PERSPECTIVE ON GEOGRAPHICAL INDICATIONS:

4.2.1 NATIONAL RATIFICATION WITH INTERNATIONAL CONVENTIONS:

Geographical Indications have become an important component of intellectual property law in India lately, linking regionally produced products to their area of origin. India, being a member of the WTO, agreed to the inclusion of national laws relating to protection of goods under the IPR regime and introduced the Geographical indications of Goods (Registration and Protection) Act, 1999 in the year 2003. Apart from the fact that India had complied with the provisions laid down by the WTO, there were a number of associated reasons for which laws governing Geographical Indications were introduced for the first time. India is a land of historical diversity and a home to multiple traditional knowledge systems belonging to various tribal and non tribal indigenous communities, it was observed that a number of cases relating to foreign infringement of indian produced goods mostly including plant medicine and plant genetic resources had increased, the problem was occurring due to a lack of statutory vigilance in the form of protection to rightful indian IP holders, this triggered the Indian government to formulate an act which protects indian producers from foreign exploitation of various forms.

As per reports the number of GI tagged products have risen from 300 to more than 600 in the span of the last 4 years which majorly includes handicrafts and food products. The state wise distribution is uneven per say due to a significant number of unregistered products which are also originating from specific regions in the country, however the states where these communities reside lack a systematic procedure of governing GI based registrations which are often difficult to navigate and requires technical assistance due to its complicated working p[rocedure. The statewise distribution can be seen as [85]karnataka has the highest number of registered GI products with 24 registered GIs, it is followed by Tamil Nadu which is the second highest with 35 registered GI products, Maharashtra is the third in the list with 30 GI registered products, including other culturally dominant states like West Bengal and Andhra Pradesh which has significant contributions to the handicrafts and food products manufacturing business.

4.2.2 ROLE OF REPUTED AND MINORITY INDIGENOUS COMMUNITIES: There is a visible disparity between the number of GI tagged products obtained from majority communities which might be working with indigenous knowledge or using associated indigenous knowledge and other minority indigenous communities that are distributed all around India especially in the north eastern and the eastern belt of the country. GI links a products value to its area of origin and in the case of products originating from majority indigenous communities, they have managed to attain a commercial value due to the name of the place from which it origins, however in the case of products originating from minority indigenous communities, the product

[85]Nuzhatparveen Ganihar, S. R. Mulla, S. G. Gollagi and Satyanarayana C, An overview of Geographical Indications in India, 11, SAJMR, 889, 889-890, (2025).

might be of commercial value but it becomes relatively difficult to get it registered as a GI due to the reputation factor in the market. Producers and traders should engage in better stakeholding plans and help these communities grow and sustain themselves.

4.2.3 THE NEED FOR RULES UNDER GEOGRAPHICAL INDICATION PROTECTION:

There was a need for the implementation of stricter provisions under the protection of Geographical Indications and it was triggered by the events as discussed as follows:

1. Darjeeling Tea controversy: The Darjeeling Tea was the first product in India to receive the GI tad in 2004 and since then, has faced numerous issues relating to trademark infringement and biopiracy related cases from all over the world which sells darjeeling tea but it doesn't origin from the original location of the place which disqualifies it as a direct geographical indication, the rights of which are retained by the original producers of the Darjeeling tea. A huge portion of market revenue was being lost on the part of the tea estate agencies manufacturing those products as they were easily being imitated in the market and sold for equivalent pricing, it was in this regard that the GOI mandated stricter provisions in relation to the protection of geographical indications and the bill for the Geographical Indications of Goods (Registration and Protection) was passed in both the houses of the parliament and the act came into force 3 years later, it is to be noted that prior to this enactment, there were no existing protocols, norms or laws to safeguard Geographical Indications either as an appellations of goods or an indication of goods.

2. Basmati Rice controversy: Basmati Rice production is native to the northern parts of India and has been cultivated and developed using historical traditional knowledge for generations. The product boasts of superior grain quality in respect of other locally produced grains in the other regions of India, due to the involvement of the distinctive environmental resources in the northern belt (Sub-Himalayan) regions and the use of traditional community techniques, this has resulted in the product gaining global reputation and associated higher export value. The problem started arising with the granting of a patent claim by the United States Patent and Trademark Office to a US based company whose grant was approved in the category of grains and the acclaimed Basmati tag was approved for it. This not only amounted to wrongful exploitation by creating confusion for the consumers of Basmati Rice around the world but also directly hindered the export sales of the original product from india. This was challenged on the grounds of wrongful patenting as the product was a GI tagged product and was directly linked to a specific location in the country, the US patent office after hearing both the claims gave a verdict which acted against the interest of India, claiming that the term ‘Basmati’ even though is not a generic term globally, will still not be considered as a GI in India because it fails to establish a direct link to a singular geographical location within the subcontinent and has been used generically all over India. This prompted the government to lay down stricter provisions in time.

4.2.4 LEGAL MECHANISM UNDER GEOGRAPHICAL INDICATION PROTECTION:

The legal mechanism provided under the protection of Geographical Indications was the enactment of the Geographical Indication of Goods (Registration and Protection) Act, 1999 overseen by the Controller General of Patents, Designs and Trademark in India and was enacted with the purpose of fulfilling the objectives of tackling piracy in the global market, restriction of unauthorized use by any private or public entity and enhancing consumer awareness. The idea behind the enactment was to not only enforce this defensive mode of protection but to also ensure that the original producers got a moral incentive to protect their goods and this production subsequently has a positive impact on the long term economic sustainability of the communities and the producers involved in it.

4.2.5 GEOGRAPHICAL INDICATION OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999: CHAPTERISATION ASSESSMENT:

The chapter wise assessment of the GI Act, 1999 has been discussed as follows:

1. Chapter 1(preliminary): the first chapter comprises the sections containing the definitions, interpretation and commencement of the act.

2. Chapter 2 (The Register and Conditions for Registration): the second chapter lays the conditions for registration and details regarding the register.

3. Chapter 3 (Procedure for and Duration of Registration): the third chapter comprises of the application procedure and the allotted duration of time for registration of GI

4. Chapter 4 (Effects of Registration): the chapter outlines the effect of the registration across India.

5. Chapter 5 (Special provisions relating to Trademark and prior users): the chapter outlines the scope of Geographical Indications and Trademarks.

6. Chapter 6 (Rectification and the Correction of the User): the chapter lays down the provisions for rectification of errors and alteration of errors made to the register.

7. Chapter 7 (Appeals to the Appellate Board): the chapter lays down the provisions for appeals made before appellate board, alterations, procedure of the board etc.

8. Chapter 8 (Offences, Penalties and Procedure): the chapter lays down the provisions for punishment for offences, penalties in case of wrongful registration to the register.

9. Chapter 9 (Miscellaneous): chapter comprising the miscellaneous provisions.

4.2.6 FUNCTIONALITY OF GEOGRAPHICAL INDICATIONS:

The functionality of Geographical Indications can be explained from the purpose of commercial usefulness and also from the perspective of benefit sharing with communities that are collective producers of the goods. The socio economic usefulness and functionality of registration of GIs can be explained as:

1. It serves and fulfills the purpose of enhancing consumer awareness about products which have earned market reputation against infringed products which are imitations and result in decreasing the market value of the original products. The usefulness of this registration in accordance to indigenous products is doubtful as preservation of traditional knowledge no longer remains a priority compared to selling products for profits.

2. Original proof of production is considered to be the proof of production in a certain geographic location and registration of such products help in the development of the community and reward them with benefits that help to mature and develop the product in time.

3. Products once registered enjoy an identity which grants exclusive rights against imitation and helps develop the economic conditions of the producers by enforcing commercial sales.

4.2.7 FUNCTIONALITY PROBLEMS WITHIN MINORITY COMMUNITIES:

Out of all the products that have gained natural and regional identities by virtue of hailing from majority communities with or without indigenous involvement, the majority of these communities have used traditional knowledge or associated traditional knowledge to produce these goods, the socio economic status of these communities are relatively better than the minority communities of the country, for example, the indigenous communities (mostly tribal) in the Jhargram and Medinipur belt are engaged in traditional broom making practices along with other forms of sustainability inventions. These groups will not be identified as potential candidates for GI registered goods as these goods hold little or no commercial usage compared to distinctive products hailing from other regions. However communities like the Lodha community who are natural sea dwellers focus on the manufacturing of plant breeds which hold immense medicinal value. Such products even if registered as GIs, does not guarantee adequate returns to these communities as they are devoid of governing leaders in institutional provisions. It is in this regard that conversion of semi commercial products to fully commercial products along with awareness of consumers to increase purchase of minority indigenous specific regional products would help improve the socioeconomic status of these communities. The functionality scope of using GIs can be high but has to be evenly distributed to accommodate all communities.

4.2.8 GEOGRAPHICAL INDICATIONS PROCESS OVERVIEW IN INDIA:

The GI registration process in India is a tedious job and often is considered complex for the likes of people hailing from rural sectors who are not familiar with the nature of the act and requires representation by agents or other interested parties who fulfil the registration duties for them. This recurring issue has resulted in an inferior number of GI registered products from specific areas which has a higher rural population. The registration process requires the filing of the application for GI registration to the appellate body which should outline the fact that the application advocates for a product to be a genuine GI, not containing any other associated product, it contains a proof statement from the community or an individual representing the community outlining the proof of genuinity of the product and its reputation, characteristics and other human and technical factors involved in the product making, the distinctiveness of the product has to be mandatorily backed by a report which will be used during pre registration and post registration stages. The other requirements include presentation of area maps from which the product has been claimed to hail from and the application for registration must also include any part of the product which has been claimed to have a special attribute in comparison to the entire product.

1. OWNER RIGHTS UPON REGISTRATION OF GEOGRAPHICAL INDICATION:

The definition of a registered owner of a geographical indication includes any person or group of persons, associations under law can be registered users and their name should be present in the register for GIs as the legally registered owners of the product.[86]The rights that are enjoyed by these legally registered owners are as follows:

1. Right to object in court against wrongful use without the consent of the original holder
2. Right to grant license to other users by mode of written agreements conforming such transfer
3. Right to get reliefs[87]

The rights that are guaranteed to registered owners for GIs positively overlap with indigenous rights that enhance sustainability within their communities. They are discussed as follows:

2. POSITIVE RIGHTS GRANTED THAT OVERLAP WITH INDIGENOUS RIGHTS:

Based on the above statement, indigenous communities might include tribal communities or semi tribal indigenous communities whose rights in relation to livelihood and intellectual property protection might be correlated to rights granted upon GI registration for goods made using TK.

[86] Sharma.S, Singh.S, All about Geographical Indications, iPleaders Blog, (Mar. 26, 8;56 PM, 2025), https://blog.ipleaders.in/geographic-indication-law-in-india/
[87] Id.

- Right against exploitation is a positive right which generically excludes other users from misuse and in case of indigenous communities helps them safeguard TK indirectly by legally excluding access to other users from infringing their product.

- Right to get relief and Right to benefits are crucial in diminishing economic instability within these communities by effectively providing them with relief in the form of compensation by the infringer and adequate benefit shared upon legally permitted usage of the associated knowledge by other users, communities and countries.

- Right to self determination although is not a generic right but is considered to be a positively derived right interpreted in the context of attaining societal reputation based on the demand of an indigenous product registered from such communities.

These rights can help local producers belonging to non indigenous communities but the application filing process needs reevaluation in certain aspects to accommodate the interests of traditional producers who aim to preserve their products in the long run and also sustain themselves.

3. EVALUATION OF THE REGISTRATION PROCEDURE:

The registration for geographical indications are conducted in the following steps:

A. The application for the registration needs to be filed by the producers or their representatives
B. The application is streamlined through the preliminary examination stage where the applicant will get an opportunity to be heard after rectifications have been corrected, if all the conditions are satisfied then the application is accepted.
C. The application needs to be published in the journal for Geographical indications within three months of approval
D. Objections can be raised against the acceptance by other users within three months of acceptance and a notice is issued to the applicant who can file a counter statement, which once filed, subjects both the parties to court hearing
E. If all the above mentioned conditions are satisfied then the application is registered and the certificate of registration is issued.
F. The registration for a Geographical indication is subjected to renewal and the period is 10 years.

The GI registration for products made using TK needs a documentation of folklore or traditional practices on the basis of which the product was developed due to the requirements of disclosure of product making techniques involved which comprises both human elements and traditional and associated traditional knowledge.

4. CHALLENGES IDENTIFIED DURING AND POST REGISTRATION FOR GEOGRAPHICAL INDICATIONS:

The challenges that have been listed during the pre registration, registration and post registration stages for GI of indigenous goods can be classified into general challenges and specific challenges. For indigenous specific goods which are to be registered, the issue arises in the form of compliance with strict provisions laid down by the GI Act, which has specific provisions in relation to documentation and disclosure of production techniques. The producers often suffer from second hand exploitation by the others who are a part of the supply chain for the product. This is also known as free riding.[88]

Community bias within indigenous/non indigenous groups regarding complete disclosure of traditional methods involved in product making poses a threat during any stage of the registration as the registration will not be processed on grounds of non compliance with provisions mentioned in the act. Another issue faced generally by both indigenous and non indigenous producers is foreign intervention on indian GIs which substantially exploits indian market shares leaving inadequate profits for relatively marginalized groups which suffer the most compared to other relatively well established communities. The TRIPS framework has been flexible in allowing countries to develop sui genres laws to protect the original producers who often are the holders of traditional knowledge, however under the GI Act of India, such protection is not provided due to the lack of implementation of domestic laws especially to promote the rights of the indigenous community producers.

Post registration of GIs originating from an indigenous community should include extensive marketing and it can be achieved by identifying genuine indigenous products made using TK and subjecting them to branding as part of a government aided heritage initiative will help these communities reap more benefits. The need for promotion of such groups is to reduce the barrier between them and other classes of producers in the country. Post registration benefit inequality directly hampers quality of craftsmanship as the producers often suffer from below standard working conditions leading to lack of moral incentive. In the absence of community representatives who are familiar with the traditional methods used in the production, the exploitation of such knowledge systems is inevitable, leading to absolute cultural disintegration within these groups. The highly disorganized [89]handloom sector which also is one of the oldest traditional occupations of the country is a testament to the fact that the GI process in India, including pre registration difficulties, registration related complexities and post registration disparities between the benefits enjoyed by the private giants of the supply chain and the

[88]D.Kasturi, Prospects and Challenges of Geographical Indications in India, 13, TJOWIP, 148, 168, 2010.
[89] Id. at 169

neglected producers of the commodities, this can be tackled by refocusing on the need to preserve traditional knowledge merged with commercial motivation.

5. PROSPECTS OF REGISTRATION FOR GEOGRAPHICAL INDICATIONS:

There are significant challenges associated with the registration procedure for a geographical indication but it is not without the benefits that come from such registration. The prospects of registration for GI tagged goods comes at large for both the producers and the associations involved in the other processes regarding the product. The future commercial prospect of the good automatically gains a competitive advantage in the market upon registration due to the awareness of the consumers regarding the special traits of the product, considering that loyal consumers can be retained only if quality control is ensured to preserve the distinctive trait of the product. Rural development and sustainability can become a positive prospectus of registration for GIs. The registration oriented positives include right and control over the product along with the right of transferability but the socio economic oriented prospects are necessary for developing nations like India where indigenous populations suffer from a lack of commercial motivation as most of these communities are under developed and mostly rely on traditional know hows for survival and sustainability.

It is in this regard that producers should be backed by the government or associations willing to monetise these creations and with the touch of rural traits and other factors, these products might have an edge over other similar categories of goods which are manufactured using a different production style. The registration of these goods creates an automatic consumer base who focus on quality of the product which if the monetary incentives are provided equitably, will motivate the indigenous producers to produce, develop and maintain a superior standard of quality. This indirectly has a positive outcome on employment in the region, partially tackling the problem of youth migration which is prevalent in these societies. Apart from these positives, GI registration for indigenous goods or traditionally made goods ensures that the cultural representation through these products is maintained as these commodities are a reflection of the traditional knowledge systems which is prevalent in these communities.

One of the other notable prospects of registering GIs is indirect branding, even though it is not protected as trademark, a GI guarantees the origin of the product and its manufacturing process enhancing indirect branding amongst consumers who might not only purchase a certain category of indigenous goods, but due to the goodwill generated in the process, resorts to purchase of other categories of indigenous products as well which might not be as commercially viable as the other specialised products originating from that location. This ensures expanded marketing, more monetary benefits and indirect branding. The prospects of GI registration is immense, however a lack of benefits shared with the original producers hinders the process of manufacturing and results in misuse by other producers and ultimately exploitation.

4.2.9 INDIAN PERSPECTIVE ON INDIGENOUS COMMUNITY RIGHTS:

1. India is a home to several groups of indigenous communities which are scattered all over the country, below mentioned is the list of indigenous (tribal, nontribal) communities zone wise:

A. Major Tribal Groups in India (statewise): The identified major tribal groups are as follows

1. Bhils (Madhya Pradesh, Gujrat, Rajasthan, Maharashtra) (notably odlest)
2. Gonds (Madhya Pradesh, Odisha, Maharashtra, Chhattisgarh) (notably oldest)
3. Santhals (Jharkhand, West Bengal, Odisha)
4. Todas (Tamil Nadu)
5. Great Andamanese (Andaman and Nicobar Islands)[90]

B. Particularly Vulnerable Tribal groups (Minority indigenous communities):[91]

1. Andhra Pradesh and Telangana: Thoti, Kolam, Chenchu, Bodo Gadaba, Bondo Poraja
2. Bihar and Jharkhand: Asurs, Birhor, Birjia, Hill Kharia, Konvas, Mal Paharia, Savar
3. West Bengal: Santhala, Birhor, Totos, Lodhas (Sundarbans)
4. Andaman and Nicobar Islands: Great Andamanaese, Jarawas, Onges, Sentinelese
5. Uttar Pradesh and Uttarakhand: Buxas, Rajis
6. Tripura: Reangs
7. Rajasthan: Seharias
8. Tamil Nadu: Todas, Kotas, Irulas, Paniyans, Kurumbas, Kattu Nayakans
9. Manipur: Marram Nagas
10. Maharashtra: Maria Gond, Kolam, Katkaria
11. Odisha: Birhor, Bondo, Didayi, Kharias, Kutia Kondh, Mankidias, Soura, Chuktia Bhunjia
12. Gujrat: Kathodi, Kohvalia, Padhar, Siddhi, Kolgha
13. Karnataka: Koraga, Jenu Kuruba
14. Kerala: Koraga, Kadar, Kurumbas, Kattunayakan, Cholanaikayan
15. Madhya Pradesh and Chattisgarh: Baigas, Bharias, Hill korbas, Kamars, Saharias, Birhor

The above-mentioned tribes have been identified as particularly vulnerable indigenous groups that are scattered all over India and approximately covers more than 100 marginalized communities with special focus on regions like West Bengal and the north eastern belt of the country which estimates for the maximum number of vulnerable tribal groups.

---

[90] PWOnlyIAS, Tribes in India: State Wise Distribution, Ancient Tribes and Challenges, PWOnlyIAS, (Mar 27, 2025, 6:33 PM), https://pwonlyias.com/tribes-in-india/

[91] Vikaspedia, https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/scheduled-tribes-welfare/particularly-vulnerable-tribal-groups?lgn=en, (last visited Mar 27, 2025).

2. Geographical Indications and Indigenous traditional knowledge:

There are a significant number of GI tagged goods that have been produced by the usage of traditional knowledge pertaining to certain indigenous communities that have been listed as below (exclusive of minority specific indigenous groups):

1. [92]Aranmula Kannadi (Kerala)
2. Kancheepuram Silk (Tamil Nadu)
3. Pochampally Ikat Handloom and Sarees (Andhra Pradesh)
4. Balaramapuram Handloom (Thiruvananthapuram, Kerala)
5. Darjeeling Tea (West Bengal)
6. Ceylon Tea (Sri Lanka and parts of southern India)
7. Thanjavur Paintings (Tamil Nadu)
8. Bastar iron craft (Chattisgarh)
9. Hyderabad Haleem (Telangana)
10. Warli Paintings (Maharashtra)

Majority Indigenous communities have been able to establish a product reputation owing to the use of distinctive traditional knowledge prevalent in these areas as compared to the previously mentioned particularly vulnerable tribal groups where the relevance of geographical indications is much more absent owing to lack of resources and improper representation of such communities. The government of India as part of its "Azadi Mahotsav" Initiative had undertaken the responsibility of GI tagging of more than 100 indigenous products of handicrafts, metallurgy and other categories in order to promote the rights of marginalised tribal communities of India. Since indigenous population accounts for almost 8% of the population of the country, several initiatives, treaties, and national conventions have taken place historically in order to protect the rights of indigenous communities of India.

3. India being a member nation of the UN and a participant in the international convention for protection of indigenous community rights have set an universal example for the world in terms of development projects and initiatives focused on core indigenous communities, apart from the constitutional provisions specifying the general rights, specific rights pertaining to biodiversity which is the main component of indigenous traditional knowledge development, rights pertaining to social, political and economic causes within these societies have been implemented in all sectors of the country along with focus on traditional product commercialisation by means of sales and overseen by the government of India. Intellectual rights protection remains the only

[92] Gopalakrishnan, N.S. et al (2007) Exploring the Relationship between GIs and TK: An Analysis of the Legal Tools for the Protection of GIs in Asia, ICTSD Programme on Intellectual Property Rights and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

area of protection which has not been fully ratified by state governments, and has subsequently affected the socio economic conditions of these groups.

4. The development of the indigenous communities and their rights can be understood better by analysing the policy decisions and legal mechanisms within the indian framework, these policies are divided into regional policies and centrally administered policies with reference to scheduled tribes in india, these initiatives include the following:

A. EFFORTS OF THE MINISTRY OF TRIBAL AFFAIRS:

The Ministry of tribal affairs under the Government of India is dedicated to the socio economic development of scheduled tribes in India. It was set up in the year 1999 and the programs and the schemes under it were focused on integrated coordination with the central government, the other state governments and nonprofit organizations working for these communities. These schemes comprising economic, educational and social development through institution building are administered by the Ministry and implemented mainly through the State Governments/ Union Territory Administrations. The Ministry also supplements the efforts of other Ministries by way of various developmental interventions in critical sectors through specially tailored schemes.[93]

The various divisions under the ministry encompasses an array of benefits guaranteed to the indigenous communities of India, these divisions include monitoring of STCs, meaning tracking development of indigenous communities, tribal health initiatives focusing on healthcare management and facilities provided to scheduled tribes in cases of medical requirements, pandemic crisis management focusing on protection of such communities in times of natural calamities and other global pandemics.

The other notable divisions include infrastructure development for higher living standards and also for expanding indigenous businesses by providing local institutional assistance. Legal coordination with these societies with legal education programs to enhance awareness of private and societal rights in all aspects including intellectual property law is prevalent as indigenous knowledge needs to be safeguarded by means of enhanced legal mechanisms and protocols.

Various initiatives are undertaken in the form of tribal research programs for development and protection of tribal knowledge, along with initiatives for tracking and mitigating migration by young indigenous people. Other notable initiatives include working in close proximity to the vulnerable tribal groups and enforcement of direct benefit transfer (DBT) which ensures a smooth and transparent benefit sharing with these communities. The ministry for tribal affairs

[93]Ministry of Tribal Affairs, Government of India, (Mar 27, 2025, 10:22 PM), https://tribal.nic.in/

works in close relation with other centrally administered ministries in order to streamline policies and schemes in accordance to the needs of these indigenous communities. These joint ventures ministries enforce enhanced focus on such communities and help them attain long term sustainability by means of employment, education, entrepreneurship and other factors.

B. TRIBAL COOPERATIVE MARKETING DEVELOPMENT FEDERATION OF INDIA LIMITED:

The TRIFED was established in the year 1987 under the supervision of the Ministry of Tribal Affairs as a national level federation aimed at the socio economic development of the tribal sectors of the society by helping in marketing operations. The main agenda included bridging the gap between tribal producers and sellers in the market and help in the sales of the products which are predominantly produced in rurals sectors mostly consisting of agricultural, food and handicraft products. The producers of such commodities, although enjoying benefits for intellectual creations, suffer from lack of monetary incentives received in any form. We are aware of the exploitation that these producers suffer from due to the lack of institutional support. TRIFED through its programs helps convert rural producers into traders and sellers by setting up local institutions focused on product marketing, sales and profit returns. Apart from that retail management, ecommerce education and development of traditional knowledge are initiatives undertaken by them.

The Van Dhan Yojna was a hugely successful operation with regards to the development of marketing education amongst these communities. The point to be noted is that the focus has always been on development of raw tribal products and other resources that were organically present in the local environment. Skill upgradation, time management, and best use of local commodities have been promoted under this initiative, helping in extracting higher market prices as compared to previously sold products.

C. TECHNOLOGY DEVELOPMENT BOARD:

The TBD in general was undertaken to improve the overall structure of commercial institutions in India which consisted of companies working with indigenous technologies meaning that these companies focused on the use of indigenous knowledge for commercialisation purposes. The board aided such companies requiring financial assistance for development and marketing in the form of loans and other kinds with the purpose of originating tribal brands in India. The TBD by offering assistance to these companies helped expand marketing options of these goods and benefits were shared back to these communities. The target product category of these companies using tk was healthcare, renewable energy and agricultural products and were instrumental in integrating such technologies into marketable products which could potentially guarantee more returns compared to other manufacturing techniques used.

4.2.10 RECENT NATIONAL DEVELOPMENTS ON INDIGENOUS TRADITIONAL KNOWLEDGE AND GEOGRAPHICAL INDICATIONS:

There have been a few recent developments in the field of indigenous protection of rights, GIs, and TK preservation, these developments and upcoming events have been discussed as:

1. GI AND BEYOND, 2024 (NATIONAL SUMMIT):

The "GI and beyond, 2024" summit, overseen by the Ministry of textiles as a part of the Government of India's "Azadi Mahotsav" initiative was hosted in New Delhi, showcasing the works in the handloom and handicraft sector which is one of the oldest industries to incorporate the use of TK. The summit was attended by foreign buyers from all over the world and 10 such products which had been shortlisted were selected to be granted the status of GI registered. The summit has proven to be immensely valuable as it widens the market for locally produced high quality goods to the global market and subsequently improves India's position in the long run, which is necessary considering it will have a positive impact on this sector by attracting stakeholders and creating a global identity for itself.[94]

2. EMPOWERING TRIBAL COMMUNITIES (GOVERNMENT INITIATIVES FOR TRIBAL WELFARE IN INDIA):

The last five years has seen several initiatives undertaken by the GOI, especially in the matters of tribal welfare where focus has been on education, employment, sustainable living, nutrition, farmer debt management, loan crisis management and other sectors. Targeted programs focusing on socio economic management along with cultural preservation programs included budget expansion of almost 73% over the 2023-2024 budget for tribal welfare[95]. The other development projects include the launch of Dharti Aba Janjatiya Gram Utkarsh Abhiyan (infrastructure, health, education), EMRS (Eklavya Model Residential Schools (primary education) and the Pradhan Mantri Janjati Adivasi Nyaya Maha Abhiyan (PM-JANMAN) focusing on PVTGs development.

3. OTHER NOTABLE SCHEMES UNDER GOI: The categorical list of other notable schemes include DAPST (Development Action Plan for STs), TRIs (Tribal Research Institutes), The Pradhan Mantri Adi Adarsh Gram Yojana, Sickle Cell Anaemia Elimination Mission (2023), Adi Mahotsav and observation of other cultural festivals.[96]

---

[94] "GI & Beyond, 2024", Ministry of Textiles, GOI PIB, (Mar 29, 7:14 PM, 2025), https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2076087

[95] Empowering Tribal Communities, Ministry of Tribal Affairs, GOI PIB, (Mar 29, 7:20 PM, 2025), https://pib.gov.in/PressNoteDetails.aspx?NoteId=153230&ModuleId=3&reg=3&lang=1

[96] Id.

4.2.11 COMPARISON BETWEEN NATIONAL AND INTERNATIONAL STAND:

The comparison between Indian and foreign perspective on safeguarding traditional knowledge through Geographical Indications and emphasizing indigenous rights have been discussed as:

1. Although India is a signatory to the TRIPS agreement which recognizes the use and protection of GIs, the nature of protection offered is defensive in nature compared to other international communities in USA, China and Europe where positive protection along with exclusion rights are provided to GI holders. The TKDL was formed to counter biopiracy, indicating that the initiative for GI protection in India at that time was focused on countering foreign intrusion rather than offering a full range of exclusive rights to the producer.

2. Dual form of protection is observed in other international communities compared to domestic laws on GIs. European laws allow coexistence between GI registration and trademark registration for the same product providing that newer trademarks are not granted for well established GI products, a legal mechanism which is also followed under American IPRs. India, in comparison, does not have any provisions for dual protection, nor does it have individual national GI authorities (sui generis protection) unlike its international contemporaries. The recognition difference is observed in the form of community registrations in India, whereas European laws protect regional producers more rather than focusing on marginalized communities, a phenomenon occurring because of a historical record of economic disparity between the two countries. The other notable differences include the product category in India, comprising mostly agricultural and food products unlike a wider form of protection to wines, spirits and region specific foods offered in other countries, where these products enjoy strong branding, leading to higher exports and increased brand value. In conclusion, the differences pointed out are also a result of bureaucratic enforcement in the respective countries with India striving for stronger international recognition and European countries by virtue of EU led global trade agreements, are placed in a better position.

3. The american and chinese perspective on GIs is built on the foundation of using certification and collective marks for products, indirectly linking them to their area of production apart from mentioning the special characteristics, a practice which is observed predominantly in America and also in China where the terms are used under the chinese trademark law and the special chinese special label system. These marks are useful in GI protection, making it simpler by giving the right of inspection to the mark holder rather than the government.[97] The point of difference is observed in the adaptability and incorporation of global models by other countries

[97]Rahman Faizanur, An Exploration of the Laws and Systems for the Protection of Geographical Indications, Manupatra, (Mar 30, 9:48 PM, 2025), http://docs.manupatra.in/newsline/articles/Upload/87888F62-B7F8-4921-A0DA-C0F30AD570CC.pdf

and India, which has resulted in the need to adapt better legal policies in relation to protection of the interest of the producer primarily. In light of the above discussion the following points have been identified during comparison between indian and international GI governing mechanism and these are as follows:

The points identified are in relation to Indian laws governing Geographical Indications:

1. Lack of a dual protection model to ensure double authentication
2. Lack of a sui generis model to officiate community level governing mechanism for GIs
3. Lack of adaptability and incorporation of policies undertaken by contemporary nations
4. Lack of adequate branding and scope limited to agricultural and food category products
5. Lack of producer control over the product, subsequently benefitting traders and sellers more
6. Lack of global trade deals limiting export scope of GI tagged products from India.

4.2.12 CASE STUDIES ON INDIAN PRODUCTS MADE USING INDIGENOUS TRADITIONAL KNOWLEDGE:

1. CASE STUDY 1 (ARANMULA KANNADI)

LOCATION: Pathanamthitta, Kerala
PRODUCT CATEGORY: Handicraft
REGISTRATION STATUS: GI Registered

An unique metal mirror handicraft native to the aranmula region in the Pathanamthitta district of kerala, this creation has gained worldwide recognition and is categorised as a high brand GI globally. The traditional knowledge involved in the process of manufacturing dates back to almost 500 years and very few families are left who are directly involved in the production. The uniqueness of the product is better understood by examining the process of manufacturing involving a combination of tin and copper followed by the use of distinctive aranmula clay for the moulding procedure; this use of local TK has been apparently observed and preserved for generations,[98] especially the traditional know-hows which are only known amongst a few families which are in this business, are very difficult to imitate. The other factors that contribute to the difficulty in the production of such high grade mirrors is that there is no involvement of machinery at any stages, and are purely handmade handicrafts which require high grade craftsmanship. The pricing of this commodity and the profits on sales have been analysed as more than moderate return on sales as the cost of raw materials involved in the process is not too

[98] Gopalakrishnan, N.S. et al (2007) Exploring the Relationship between GIs and TK: An Analysis of the Legal Tools for the Protection of GIs in Asia, ICTSD Programme on Intellectual Property Rights and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

high, however the technique used is what links the product to its area of origin from where such knowledge systems were said to have originated. At present the production, sales and marketing are overseen by families that are in the Aranmula Kannadi business exclusively and no outsourcing is observed, this ensures equal profits for original producers and the distributors which in this case are the same. The GI status for this product was obtained upon the incorporation of these families as a community which ensured that profits earned were directly accessible by the producers since there was no involvement of third parties, however duplicacy has been associated with this production as well, involving multiple secondary producers in the market. At present, the commodity enjoys a superior market value compared to local contemporaries and third party manufactured mirrors due to its distinctiveness and skilled human labour employment, it also is one of the few products which till date has been able to maintain socio economic balance within its region of production.

2. CASE STUDY 2 (NAVARA RICE)

LOCATION: Chittur, Kerala
CATEGORY: Agriculture
REGISTRATION STATUS: GI Registered

The Navara rice of Kerala finds its mention in ancient ayurveda and is considered to have medicinal features. There are mentions of the medicinal properties of the rice in ancient scriptures and is said to be useful in ayurvedic treatments for digestive health, immune system strengthening, and treatment of other ailments like arthritis and anemia. Also known as the magical medicinal rice, the distinctive features include a unique short growth duration of merely sixty days compared to other varieties of rice, a distinct reddish brown colour and abundantly rich in antioxidants and flavonoids. The distinctiveness is derived from the nature of cultivation which involves organic farming methods by use of specifically spread wetlands in that region along with specific climatic and soil requirements, the colour of the seeds is noticeably black and golden due to the presence of soil elements native to this part of the state resulting in enhanced derived properties from the soil which apparently helps in the development of medicinal properties during the maturation period. It is further enhanced by traditional organic methods of farming by the producers who are accustomed to this agricultural knowledge system. The GI tag for this product was the first tag to be received for an agricultural product from Kerala and was awarded to the farmers society which was formed especially to earn a collective right over the product. The protection of the original brand of navara rice has and is still facing numerous challenges like product imitation due to the lack of awareness of both consumers and producers, for the latter the awareness of GI registration is considerably low, leading to benefits being distributed to members outside of the community which comprises the actual producers of the grain. Quality control issues due to climatic changes along with limited marketing programs and opportunities by the respective state and central governments have also resulted in this crisis.

3. CASE STUDY 3 (TERRACOTTA HORSE)

LOCATION: Bankura, West Bengal
CATEGORY: Handicraft
REGISTRATION STATUS: GI Registered

The terracotta horse figurine from the district of Bankura in West Bengal is widely regarded as one of the most prominent GI registered souvenir products all around the world, the historical connection of the figurine to ancient gods worshipped in the state makes it an important tool of not only significant socio economic impact in that region but a sign of spiritual and cultural integration as well. The production history of the figurine was confined to ritualistic practices initially which later converted to items for decoration and souvenir gifting, with increasing demands in not only one state but globally. It is considered to be a unique representation of Indian folk art and ancient cultural practices, with an effort to increase commercialisation by integrating modern terracotta art which is widely regarded. The production technique along with use of exclusive terracotta clay found in these subregions helped in the development of the figurine which sees the use of traditional pottery practices for the initial preparation of the body of the figurine which itself is a fascinating process involving turning the separated fragments on the potter's wheel separately, joining them and sun drying. This is followed by the second stage of traditional fire smoking which results in the distinctive soil colour achieved on the body of the figurine. The three stages involved the representation of community knowledge and traditional handicraft craftsmanship skills, which had ultimately helped the product achieve the GI status in 2018 under the name of “Bankura Panchmura Terracotta Craft”.

4. CASE STUDY 4 (CHHAU MASK)

LOCATION: Purulia, West Bengal
CATEGORY: Handicraft
REGISTRATION STATUS: GI Registered

Native to the district of Purulia in West Bengal, the iconic Chhau mask is a representation of one of the oldest art forms performed across India and is considered to hold significant artistic and cultural acknowledgement. The GI status was awarded to the community producers residing in the Charida region in Purulia in 2018, where the residing families are the community producers of these masks. The procedure involved in this mask making process involves an unique application technique of clay which is obtained from a distinctive alluvial rich soil found in the region and other surrounding districts.[99] The craftsmanship involved is a representation of the traditional know-how of mask making along with modern tweaks that have been incorporated as

[99]Chatterjee, Deepshikha, “Masks and Costumes of Purulia Chhau”, 36 Asian Theatre Journal, 1, 221-238, (2019).

per the consumer demands and the changing scene of global commercialization, which interestingly have forced these local producers to oversee manufacturing, sales and marketing simultaneously.

5. CASE STUDY 5 (KANGRA PAINTINGS):

LOCATION: Kangra, Himachal Pradesh
CATEGORY: Handicraft
REGISTRATION STATUS: GI Registered

The Kangra paintings are one of the best examples of usage of traditional knowledge of arts and have been a historic part of the culture of the northern states of India like Himachal Pradesh and parts of Jammu and Kashmir. Although mostly native to the Kangra region, the practice of this form of painting is prevalent in some other notable districts of Himachal Pradesh as well, dating back to the 18th century which saw the inception of these paintings based in the himalayan sub regions of India. The historical significance of these paintings is immense as it is heavily influenced by the "Pahari painting" school of arts which encompassed various communities from different districts across the state who practiced this miniature painting style, which also is one of its distinctive features. It was further developed under the influence of Mughal and Rajput rulers of that region who, along with local administrators, promoted this artform which had become an important cultural identity of the population residing there, these paintings were enriched by the use of intricate detailing, soft natural colours and lyrical descriptions of themes from ancient Hindu mythology along with detailed depictions of Hindu gods which were worshipped locally and all around India. The vibrant paintings are a result of the use of local materials native to that region including the use of handmade Siakoti paper and natural colours extracted from local vegetables and minerals, the fine detailing observed in these pictures are due to the traditional shading techniques known by local painters. The recognition of the detailed linkage to ancient traditions along with the use of local artistic skills is what led to the GI registration for Kangra style paintings in the year 2012, since when there has been a sharp decline in the production due to limited efforts from the state government and a loss of moral incentive for the producers, this reflects the socio economic reality of the artisans who are not rewarded adequately in exchange for their skilled craftsmanship. However this gap is being reduced by the efforts of private organizations and NGOs from the state who even with minimal institutional support continue to aid independent Kangra style artists.

6. CASE STUDY 6 (SAL LEAF PLATE)

LOCATION: Minority Indigenous communities of Medinipur, Jhargram, West Bengal
CATEGORY: Disposable Tableware
REGISTRATION STATUS: Not GI Registered

PVTGs or particularly vulnerable tribal groups refer to those indigenous tribal communities that are ranked the lowest according to socio economic conditions and societal relevance. These minority communities are hardly able to sustain themselves owing to monetary disparities caused by lack of education, employment opportunities and other factors. Amid these challenges, these communities have adopted a traditional way of living and incorporating the same knowledge into utility product making at the same time. This can be better understood by analysing the minority communities like the Lodha and the Santhals of West Bengal who have converted their sustainable practice of plate making using leaves of the Sal tree into a commercial venture by means of overseeing production which is handmade and the sales at the same time. The procedure is environmentally friendly as it involves natural elements like the leaves which are collected from the forests, sun dried and later stitched in the shape of a plate which are sold at a wholesale rate in urban markets. The whole process involves usage of traditional plant knowledge and associated human skills. This profession is practiced by multiple communities with or without institutional or local support to promote marketing and expansion of business, and hence suffers from a lack of economic opportunities that are provided to other sellers.

4.2.13 CHAPTER CONCLUSION:

"We have a mother, and that mother is our territory, our common home of all the Indigenous people and everyone who inhabits the earth."[100]

- Maximiliano Ferrer
(General Secretary, NCIPP)

The national perspective on usage of GI is negatively limited to offering protection rather than creating local brands and helping regional producers. This has created an adverse effect on the local producers who are not familiar with branding and marketing strategies for better penetration in the global market. Although general initiatives have been undertaken keeping in mind the lack of education, employment and economic opportunities for these communities, the relevance of using tools like indicators will help them retain complete authority over production and supply chain in whatever category their production is focused on. This will help these communities navigate through the issues of employment which will be generated by business, forcing younger generations to retain traditional knowledge and put them to use in various stages of commercialization. Once these regional brands are created, economic disparities can be mitigated by adequate monetary facilities which will positively affect their social status in future.

[100] Cordon.Sandra, Top 10 quotes on Indigenous Peoples and climate change, Think Landscape, (April 1, 5:47 PM, 2025), https://thinklandscape.globallandscapesforum.org/36894/top-10-quotes-on-indigenous-peoples-and-climate-change/

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS:

5.1 CONCLUSION

Indigenous communities or the scheduled tribes of India represent that part of the society which relies on ancient sustainability survival mechanisms and as a result have inherently become the guardians of traditional knowledge which has been the cultural glue of these communities. The knowledge imbibed in the methods of living this form of lifestyle is unimaginable by urban societies and as a result, we often undermine the challenges that continue to coexist with traditional indigenous lifestyle. It is in the light of these discussions that prompted the need to address the challenges that are faced by them, including specific challenges that cover aspects beyond the general issues of standard sustainability models like food, health, education and employment. Although these challenges are more substantial, they are being tackled by joint efforts from the state and the central government in form of agendas for indigenous sustainability, superior medical supervision and aid, better educational prospects etc, the focus of this paper has been on the protection of intellectual property belonging to these communities especially in the form of traditional knowledge which is shared within the community and has been passed down from earlier generations. The protection of traditional knowledge especially in the indian scenario has been challenging in the last few decades and it is ironical that with a significant indigenous population residing all around the nation, there is still no adequate measures for the protection of their traditional knowledge other than limited offerings in the field of IP where only a handful of mechanisms have been deemed as semi appropriate for protecting such TK. The limitation of the scope however can be linked to the bandwidth of rights that can only be exclusively claimed by a community and not a private individual unless he is the representative of such an association, in light of these issues the paper has evaluated the existing forms of IP like trademarks and patents and Geographical Indications that can offer some form of protection of traditional knowledge if not a substantial amount.

One of the focus points of the paper was the protection of traditional knowledge beyond the scope of biodiversity protection and finding alternate methods within the available resources and it is in this context that Geographical Indications are considered more viable than trademarks or patents. However safeguarding traditional knowledge through geographical indications and subsequently protecting the intellectual rights of these communities was and still is a critical issue in the nation and this dissertation has explored the significantly high number of associated challenges with using GIs, provided there are no changes in the governance procedure of the authorities. Changes in the governing framework and inclusion of dual protection models which are followed in European countries are the initial changes that are to be incorporated in the IPR regime of traditional knowledge protection in India which otherwise is protected but only in a limited scope where disparities in benefit sharing are persistent and tarnish the labour of the producers of the commodities arising from majority specific or particularly vulnerable societies.

The analysis of the usage of GIs is dependent on the future scope of actions as the current framework offres limited scope, it is also to be noted that compared to the other countries, it is a rather new concept to India and in contrast to the others, the need for such usage was not due to the requirement of the country to upgrade to other forms of IP protection but to ratify to the international organisations to which it was a signatory and even after so many years of compliance with international GI models, the nature of protection is not positive and rather focuses on safeguarding the knowledge systems from local, national and international infringers, ultimately limiting the scope of producers to continue manufacturing without any real time incentives provided to them other than the right over the product which when compared to other models is restricted to authority over the product (defensive protection) rather than building a brand for the product (positive protection). Since the concept is relatively new and the scope is undetermined, the future scope of actions should include proper institutional governance backed by adequate planning as to how producers can be benefitted from such kind of governance. The GI Registration act alone cannot fulfill the requirements of the certain products which if not promoted or marketed adequately, will fail to offer any rewards to the community in the end, ultimately partially fulfilling the requirements of the full positive scope of GI registration which does not only guarantee authority over the product but also directly markets the product to the consumers as well as the location of the production which subsequently undergoes positive socio economic changes. The fragmentation of the current number of institutions into smaller governance bodies can officiate the process of not only registering the product, but also creating a brand for it by paying complete attention to the products exclusively originating from communities in that region of the state. This disparity in brand building is observed in the recognition of select few internationally renowned indian GIs whereas the need is to promote the image of the community by making their products commercially viable, it is only possible when these products are globally regarded and has accumulated a consumer base for itself which not only purchases products from this community, but also is loyal in preserving and promoting the efforts of these indigenous communities. Hence we have an idea as to how India can help develop its international consumer base through the export of products arising from the entirety of the nation and not just select few states like Andhra Pradesh, Kerala and West Bengal which are ranked the highest in sales of GI indicated products. The idea should be focused on how to associate bot the elements of usage of traditional knowledge in product making and making the product commercially resourceful as well, considering there are no limitations on the number of traditional systems available in the country, the effort should be put in by the government to not consider minority producers as mere parts of marginalised societies, but to gather the folklore around the usage of such TK and develop it by using its historical relevance and unique properties and help convert these produces into marketable brands. Ultimately the inclusion of indigenous representatives through proper evaluation, inspection and qualification should be initiated as it will help mitigate the potential corruption that might hinder the process of fair and equitable benefit sharing with the original producers. The limitations of using GIs at the present moment is higher than its prospects however there are a number of positives linked to the

registration which is mostly the potential socio economic changes that might take place provided the commodity has a consumer base, which can only be created when a consumer has the option to purchase a branded product made using TK over a local product which may or may not be made using TK. This not only creates a positive image of the product but also ensures that they are at par with globally renowned products, improving our position in regards to changing globalization dynamics around the world.

The important prospect of this registration is to safeguard the cultural identity of the community which often is ignored over the other priorities. Upon retrospecting it is evident that by safeguarding the collective identities of these communities, all other associated requirements are bound to be fulfilled which otherwise would have been overlooked if not for government initiatives to help them sustain themselves. The usage of traditional knowledge is prevalent in almost every indigenous society and if the recognition of this usage encourages the community to keep inculcating these knowledge systems into obtaining financial opportunities, then they will not only observe a positive impact on their economic status but will be partially able if not fully to support their sustainable needs, however the involvement of local statutory authorities working in close cooperation with the GOI is required to enhance these opportunities. The factor that has to be evaluated is the preservation of the natural resources native to these communities which also makes them qualify for GI registration, as without biodiversity protection, quality related issues will start to emerge as a void of naturally available resources will impact the quality of the product which requires both the elements of traditional know hows by the makers and the use of raw materials which are native to that place. The repercussions of producing inferior quality products or products made using alternative raw materials will be severe, impacting post registration quality maintenance, lack of incentives for producers to keep manufacturing and ultimately market seizing by multiple second hand producers who might be able to replicate the entire process. It is in this context that the benefits of regional branding are better understood as having a registered GI with an efficient marketing strategy promotes the product very differently from a product which is being marketed defensively. However the implementation of the same is difficult considering the population factor which is a decisive advantage of other countries with limited population, converting to more employment opportunities and better protection. The same population factor can be tackled by a two step procedure involving recognition and fragmentation in which opportunities arising in potentially viable communities are observed and in the second stage are subjected to compliance with local authorities who will take charge of building their brand, this reduces the load on the central government and potentially opens up newer avenues for expanding the scope of using this form of IP. Geographical Indications are regarded as the “sleeping beauties” of IPR and has a long roadmap of development ahead of it in the Indian scenario provided newer laws in relation to local governance of GIs, dual protection models and other necessary steps are undertaken by the government, by doing so it will develop GIs as the only existing tool under IPR to offer protection to not just one individual’s efforts, but to the contributions of an entire community.

5.2 RECOMMENDATIONS:

The recommendations on the use and governance of Geographical Indications have been categorically divided into general and specific recommendations in order to achieve a better prospect for future study on the same topic.

5.2.1 GENERAL RECOMMENDATIONS:

1. The enforcement of awareness campaigns for the benefits, usage, registration of Geographical Indications and its relationship with safeguarding traditional knowledge, fostering sustainable development and economic growth opportunities both by the efforts of the government or local organisations working in close association with such institutions is highly recommended as part of educating the producers from indigenous communities mostly, along with policy makers and consumers of the products arising from such groups. By means of properly implemented educational programs, the producers will benefit from not only being aware of their intellectual rights regarding their productions, they will develop entrepreneurial skills helping them to navigate through the nuances of product development, strategy and marketing.

2. In context to the development of awareness campaigns, the second stage that follows it is the development of capacity building programs. Capacity building programs refers to training programs undertaken by either government or non governmental institutions in order to develop skills amongst local producers who are not aware of the technical know-how of product development. These producers are familiar with traditional methods of production, especially the methods which are used to produce sustainable goods, which often fails to meet commercial standards for product reach. By means of these programs, the producers are upskilled in converting their sustainable practices into commercial growth by adapting and learning more efficient methods of development while fully retaining the traditional knowledge used in the process.

3. The registration process of Geographical Indications needs to be streamlined in order to make it accessible by all kinds of producers including indigenous producers who require active representation throughout the pre registration, registration and the post registration phase. Although there are specific provisions in relation to how this registration process can be freed of complexities and bureaucratic hurdles, the general idea focuses on the fact that the process should be restructured and tailored according to the need of the current state of governing geographical indications. The restructuring can be initiated by including digital technology for online application for GIs followed b y monitoring and registration. It can be followed by the representation of local communities by a certain individual or group of individuals who are well aware of the process of registration and can offer guidance and support at all stages. These individuals can either be government approved or self qualified representatives of these groups.

4. Strengthened enforcement mechanisms refers to the process of upgrading the provisions relating to protection of original products which are qualified for GI registration. The current enforcement mechanisms and governance of GIs needs to be reevaluated for better methods of tackling counterfeiting, unauthorized use and infringement of GIs which has been a historic issue regarding GIs from India. The need to infuse both defensive and positive forms of protection is necessary as improvements in the defensive form of protection continues to add extra layers of security to the products which simultaneously enjoys regional, national and international brand building due to the positive form of protection. The focus on brand building is critical to generate more notable GIs from India however it has to be preceded by absolute protection offered to the existing and developing products which are vulnerable to infringement. Strengthened enforcement mechanisms may include creation of specialised GI enforcement units, enhanced collaboration with law enforcement agencies and stricter provisions and penalties on infringers.

5. Geographical indications for products made using traditional knowledge has a close relation with biodiversity and can be directly linked to environmental sustainability as many indigenous products are deep rooted in sustainable products which now are being upgraded to commercially viable products without losing their traditional touch. The promotion of using sustainable methods of production is highly recommended especially agricultural production which is heavily dependent on climatic factors and can severely affect the quality of products which are food based. Examples of loss of incentives amongst producers of season based products are set in order to understand and incorporate social responsibility which can be evaluated in various aspects however the traditional linkage to these certain products directly becomes the collective social responsibility of these communities otherwise which will result in significant loss of quality leading to loss of consumption and ultimately economic losses.

6. International collaboration is also one of the general aspects of expanded marketing which is purely controlled by the GOI if not for private institutions who are well established in the global forum. These collaborations are useful in brand building and export sales and hence has been the area of focus in the last one decade. It is highly recommended that the GOI continues to focus not only on the protection of these products but also build their value and reputation in the global market which will fetch significant incentives for the future. Apart from protecting the reputation of already established GIs, the invention and inclusion of newer products especially those originating from distinctive indigenous communities can have significant impacts on the global market as india still remains one of the few countries with an abundance of useful indigenous traditional knowledge which once established as a GI and marketed strategically, will have a significant positive impact on the indian market.

7. Mechanisms for continued evaluation and review analysis in context to the governance of GIs in India is highly recommended along with focus on stakeholder consultations, impact assessments, and policy revisions to ensure its effectiveness, relevance, and adaptability.

The general recommendations in context to relevance of geographical indications to the indigenous communities of india will include the following:

1. Methods to foster preservation of Traditional Knowledge
2. Developing scope for economic empowerment
3. Retention of cultural identity and pride
4. Focus on environmental sustainability especially in areas with special focus on PVTGs
5. Promotion of local tourism
6. Recognition and preservation of indigenous land and territory
7. Empowerment through collective rights
8. Institutional support for cultural revitalization of absolutely marginalized tribes
9. Encouragement of indigenous youth engagement and preventing migration
10. Leveraging partnerships and support from institutions working in indigenous areas

5.2.2 SPECIFIC RECOMMENDATIONS:

1. Broadening the definition of producers:

Producers are defined in either the context of commercial producers or community producers who are collectively responsible for preserving traditional knowledge. The GI registration act recognises and defines producers better in context of those who are involved with either industrial or commercial production or originating from absolutely well established communities creating a gap between themselves and other small scale producers who are community based and indigenous in nature. These community producers need to be included in the broader definition of producers under the GI registration act and it is highly recommended that the general definition is amended to exclusively include traditional, community based, and non industrial producers, ensuring that products arising from such communities should qualify for GI registration despite not being commercially lucrative for others. This not only encourages rural producers to continue manufacturing but tackles multiple issues like economic disparities, employment and sustainability problems that exist in these communities.

2. Fragmentation and simplification of the registration process:

The current registration procedure is complex, legally challenging and comparatively expensive for indigenous producers who already are facing issues without appropriate representation and often fail to navigate through this procedure, this leads to the nonrecognition of potentially viable products which if registered as GIs would have positively impacted those communities. It is in this context that the GI Registration act should be simplified to include and address these complexities which are faced by indigenous applicants by the introduction of subsidized procedures and the creation of dedicated outreach and legal aid cells to help these applicants.

4. Sui generis model of governance:

A sui generis model of governance refers to the implementation of local laws under one centrally administered and governing institution or act. In the Indian context, the GI registration Act of 1999 is the only existing act governing the registration of products from all over india and the administration of it is complicated and overburdened at the same time. It is in this context that the framework of governance can be broadened by a method of fragmentation of centrally governed laws into various local laws which will be tailored according to the specific needs of various communities ensuring that their rights are protected and they are developed sustainably. There are a significant number of traditional communities spread amongst the various states and union territories which often fail to qualify their products for GI registration due to the existing limitations in legal administration, which is also accompanied by inadequate representation, it is in this context that fragmenting centrally administered laws into local laws for indigenous communities, particularly vulnerable tribes, and other marginalised groups will broaden the scope of diversity in application of products (both indigenous and non indigenous) and also adequately incorporate producers from all over india who otherwise were restricted due to these legal complexities. The fragmentation procedure should be undertaken primarily keeping in mind the needs of marginalized groups and even adopt special laws for GI registration of goods from these communities, while the already existing mechanisms can coexist along with them.

5. Placement of indigenous representatives in central administration of GIs:

It is crucial and highly recommended to recognize indigenous representatives who are a member of these communities themselves and place them in administrative roles provided that they qualify the necessary requirements for the job. These representatives, being a member themselves will know, understand and evaluate the status of these communities better than non indigenous representatives who are not associated with these communities by any capacity. This will ensure absolute transparency in local administration, better allocation of resources for production and appropriate representation of the community. The selection of such candidates should be based on monitored qualification and fulfillment of necessary requirements.

6. Dual protection models under intellectual property laws:

India does not allow for the registration of products under GIs and any other IP tool like patents or trademarks at the same time, this is in contrast to the practice of dual protection which is observed in other countries like China which follows certification of marks along with GI registration. It is highly recommended to propose a method for obtaining a trademark for products or certification of marks for products before qualifying for GI registration. This offers a two fold protection to the commodity and also ensures regional branding at the same time. However the recognition of collective rights over individual rights under Geographical

Indications is in contrast to trademark ownership which is an individual right, dual protection can only be offered once a method has been devised to include both kinds of ownership of rights in respect to protection of intellectual property.

7. Prioritizing Traditional Knowledge and cultural integrity:

Unlike other countries which focus on the absolute protection of traditional knowledge which in return helps in continued development of indigenous products, the Indian legal framework does not have any provisions for protection of traditional knowledge under geographical indications apart from secondary provisions which indirectly provides protection but only in a very limited capacity. This leads to lack of moral incentives amongst indigenous producers who often face the challenge of prioritizing commercial based production devoid of usage of traditional knowledge or very little usage over production of commodities which are not only geographically linked but incorporate usage of traditional knowledge. It is highly recommended for the act to be amended to introduce guidelines that effectively integrate traditional knowledge and cultural practices as part of GI evaluation criteria for either indigenous specific registration or other kinds of general registration for products which might be produced using traditional knowledge. This can be further aided by promotion of collaboration with inter ministerial bodies which are associated with tribal welfare, affairs and cultural heritage.

8. Enhanced dynamism in laws governing Geographical Indications:

India is one of the member nations to the TRIPS agreement which lays down the provisions for incorporating newer laws based on the need of the hour, it is in this context that dynamism needs to be incorporated in the Indian legal framework governing geographical indications by means of adopting the ideas and rules which are laid down in other countries which are comparatively more effective in management of GIs. India, when compared to the American, European or Chinese models of GI administration, falls short of achieving global status due to an outdated and static administrative model, which can be altered by adapting to the changing times.

The specific suggestions in relation to GI registration of indigenous goods are as follows:

1. Creation of special categories for Indigenous Geographical Indications
2. Exemption or reduction of fees for Indigenous applicants
3. Provisions for mandatory inclusion of Traditional Knowledge in GI descriptions
4. Addition of mandatory community consent clause to ensure ethical registration
5. Linking of GI protection to acts in relation to environmental protection like the BDA, 2002
6. Development of Indigenous GI Registry sub portal like TKDL

The above mentioned points are the changes recommended for better governance of GIs in India.

5.3 PROOF OF HYPOTHESIS:

1. (H1): **Geographical Indications is an important tool for the protection of traditional knowledge and sustainability of the various indigenous communities of India, but only if there is an equity in the benefit sharing among the community members and the registration process being less complicated, transparent and have provisions to include traditional knowledge in its description.**

PROOF: Geographical indications if evaluated under the sustainability factor of indigenous communities can prove to be a viable tool for their economic prosperity considering that there are no disparities observed in the benefit sharing hierarchy which includes the producers of the product and the sellers in the market. In the case of indigenous communities, the labour of developing the product over time is the responsibility of the producers belonging to the community whereas when the product, if qualified for GI registration, requires sellers who are well aware of the market dynamics to commercialize the product and make profits because of the lack of awareness in the community. This undue advantage has been taken in several cases of indigenous product registrations by the sellers who don't equitably reward the original producers and only provide the minimum compensation for their labour. Such cases has been observed in the case of Pochampally Ikat from Telangana where despite having a GI status, many wavers who were also the original producers saw little or no change in their income or status as the market was controlled by the middlemen and the schemes provided by the government were inaccessible to these grassroot artisans who already lacked awareness of the same. In the case of the Bastar Dhokra of Chhattisgarh, the tribal artisans suffered economic disparities at the hands of urban designers and middlemen dominating the GI space, by not being given fair share of profits as they lacked the awareness of legal technicalities and the financial power to claim their rights. There are many such instances where the original producers have suffered losses at the hands of large scale exporters and sellers who are familiar with the pre, current and post registration procedures which ultimately determines the long term scalability of the product. It is in this regard that if indigenous producers are compensated fairly by their associated parties, there are an abundance of economic benefits as these products can reap profits due to the consumers who are purchasing these products on goodwill, and if continued to do so then it can positively affect the sustainability of these community producers. The proof of GIs being an important tool for safeguarding traditional knowledge is positive considering there are changes made in the current framework of registration which does not have provisions to include traditional knowledge nor does it directly preserve it, however since GIs offer community rights and traditional knowledge is not limited to one individual but the entire community, it can be an important tool to preserve it only if there are clauses to mandatorily include traditional knowledge in the description of the GI during registration and a guarantee of non disclosure in order to protect these indigenous communities. The true potential of GIs can be evaluated only when the changes are incorporated in relation to benefit sharing and having a streamlined registration procedure which can ensure that the indigenous producers do not suffer from losses.

2. (H2): In India, the majority indigenous communities are deriving greater economic benefits from GI registration while the minority indigenous communities are facing challenges regarding the same issues.

PROOF: Evaluating the list of notable GIs originating from majority indigenous communities or communities which are not categorized as particularly vulnerable, it is observed that economic benefits are available to the producers who often are parts of associations formed in order to facilitate the process of registration as under the Indian laws governing GIs, the rights are to be granted to an association of people and not individually. In contrast to this, the minority and marginalized indigenous groups which if provided adequate support can develop products qualified for GI registration, often face various challenges that limit their participation completely let alone economic benefits which are needed by them in order to sustain themselves. The disparities observed at various stages begins at the grassroot level of access and awareness where majority communities belonging to specific geographic locations which has a better market scope, is bound by institutional support or has significant political representation, often has a competitive advantage over other communities especially minority communities in context to general awareness of the uses and scope of GIs and its associated resources. However it is to be noted that GIs link the attributes of the product to its area of origin, which is a non negotiable parameter for registration, so even with institutional support, both majority and minority communities have to adhere to this provision irrespective of the difference amongst them. The second stage of disparity origins at the complexities involved in the legal and bureaucratic systems involved where minority applicants are subjected to exclusion on grounds of literacy, language and proper documentation which is evident as these communities lack a collective voice or adequate representation to navigate through the system, on the other hand economic prosperity from GI registered products is bound to be observed amongst majority communities as they do not face the problem of representation due to their place in society. These communities are better resourced and can manage on their own if they are an established association, or otherwise with the help of NGOs, political representatives or private partners. Not only are these majority communities backed by appropriate representation, they are backed by structured cooperatives who are responsible to oversee profit sharing and also engage directly with the sellers in case of collective bargaining. Product categories play a crucial role in determining the profits obtained from sales; with agricultural and food products originating from notable communities like the Darjeeling Tea or the Kanchipuram silk becoming more commercially viable as compared to any tribal forest product or any other products originating from minority indigenous communities. These categories of products without significant development will fail to reward its producers who will suffer from sustainability issues in the long run. These disparities can be tactfully handled by a system of inclusive GI governance which will ensure that both communities are awarded fairly. Such a form of governance may include local capacity building in targeted communities which have the potential to develop marketable products, along with pro active support from local and central organisations.

3. (H3): The current legal framework and policies governing traditional knowledge and geographical indications is not adequate as it continues to offer a defensive mode of protection as part of national and international compliance models, the need for a sui generis law is imminent to increase community participation.

PROOF: The hypothesis is positive; as the laws governing GIs in India do not focus on regional branding or the development of local brands unlike other international governance models. The defensive mode of protection is reflected in many ways including the need to formulate the TKDL which was formed to prevent foreign biopiracy, it is to be noted that India has been the land of rich traditional medicinal science for decades before it was applied and incorporated by other countries and despite its long standing relation with traditional knowledge, the need to develop GI qualifications for products was not motivated by the factor that we could have utilized our traditional and cultural knowledge to develop a marketable brand for ourselves but to protect these traditionally made products from being misused by foreign companies and other associated forms of misappropriation. The Geographical Indications of Goods (Registration and Protection) Act, 1999 focuses on the authority and the ownership over the commodity which although remains the most important criteria of protection, but fails to accommodate provisions which can help reflect the significant cultural identity that is associated with the product. If provisions are included to treat traditional knowledge as central to GI description rather than being incidental in nature, then it will not only protect the intellectual property of the producers but will also directly help them in marketing their products on grounds of connection to India's rich cultural identity which in the modern world has gathered consumers from all over the world. India being a member nation to the WTO continues to ratify to the provisions highlighting trade and intellectual property primarily, whereas it has the right under the TRIPS agreement to formulate laws that are tailored especially for the current economic status of the producers of the country, the emphasis on the above mentioned points should be associated with a renewed focus on the cultural and societal aspect of the indigenous people who are the last of the beneficiaries in case of benefit sharing programs due to their negligible involvement in the entire registration and post registration procedures. It is in this context that Indian laws governing GIs should be fragmented into a sui generis model as local laws formulated exclusively keeping in mind the needs of the marginalized producers will help define parameters for documentation, registration and commercialisation of indigenous knowledge while safeguarding their community identity at the same time. If such a model is incorporated it will directly impact community participation as more indigenous societies will get involved in the process like in countries like Peru and the Philippines who have undertaken customised frameworks to protect their traditional knowledge and community protocols. The idea is to establish a balance between protection of rights and formulating a method to accommodate producers from all kinds of communities in developing products which can help India scale global heights not only through means of profits but creating a space where there is adequate moral incentive for indigenous producers and consumers at the same time who can choose from an array of options.

4. (H4): The current state of Geographical Indication protection in India has the potential to play a vital role in preserving the cultural identity and traditional practices of indigenous communities, contributing to their resilience against cultural erosion in the globalized world, but fails to do so effectively.

PROOF: Geographical Indications in respect of indigenous communities offer a different set of challenges and prospects as compared to established communities which have devised tools to prevent being culturally irrelevant or lose their position in the society due to the presence of alternative options that can help avoid such a phenomenon. In case of indigenous producers, the prospects are heavily influenced by the kind of protection that GI offers in the form of potentially binding an entire community on the basis of rights which are commonly shared and not completely vested in one individual, this directly impacts community participation which is a crucial factor in development of more indigenous goods in the future which can get the qualification for geographical indications. Geographical indications unlike patents and trademarks can serve as a culturally sensitive legal tool as these other forms of IP are limited to offering protection from third parties and safeguarding individual creations/inventions, whereas GIs although still continuing to offer a defensive form of protection in countries like India, it still is considered as the one off tool to recognize community efforts by means of legally linking products to their area of origin and in doing so subsequently reinforces the pride of the communities and facilitates inter generational knowledge transfer which in the long run defends the communities against cultural homogenization and erosion prevalent in the face of globalization. However it is to noted that such a model is yet to be incorporated in India as there are currently no provisions to directly preserve community TK other than individual efforts by NGOs and other non governmental organizations, the lack of a legally binding mechanism to include and acknowledge traditional knowledge usage during the time of GI registration has hindered the prospects of many communities in India unlike some other countries especially in the European and the North American belt which has renewed their focus on preserving traditional knowledge and made it a mandatory provision to be acknowledged during and after the application procedure. The benefits can be seen in the form of communities asserting absolute ownership over products which are culturally significant to them and qualified for commercialisation as well due to the reflection of the strong cultural values that are linked to the geographical area and its people which has significantly contributed to the methods used in producing indigenous commodities. Geographical indications if tailored according to the needs of indigenous communities can significantly contribute by elevating the status of indigenous culture in the global world through the means of GI tagged products along with incentives for younger indigenous populations to learn and carry forward their traditional practices. The current state of GI protection in India needs to undergo significant changes in its working mechanism and value the rich culture that is a part of the identity of the country and strategically incorporate it in various modes of promotion once the registration has been completed, and to facilitate and develop other products made using TK which are not or yet to get qualified for registration.

5.4 FUTURE SCOPE OF STUDY:

There is a wide scope of expansion on the current topic "Safeguarding Traditional Knowledge through Geographical Indications: Emphasizing the rights of the indigenous communities of India" as the current paper has been able to draw a parallel understanding of the three components of TK, GI, and Indigenous rights both as individual elements and as interrelated components having an impact on the working of each other. The concept of using Geographical Indications as a tool to safeguard traditional knowledge has been the area of focus and the paper is indicative of the fact that there are significant limitations as to that usage and lays down the provisions for future scholarly work to expand on the points mentioned which can guide the process of effective preservation of TK with the help of Geographical Indications.

The main limitations and challenges faced during the completion of this paper was a lack empirical evidence and the time constraints in doing so as the presentation of an empirical based study would have been better in understanding the real time challenges that the indigenous producers are facing during the various stages of qualification for Geographical Indications, on the basis of those studies it could have been devised as to what degree and what particular parts in relation to GI registrations have been challenging for these producers and their communities. Future research on the same should focus on the relevance factor of using GIs on the basis of effective usability meaning that the use of GIs should be having a positive impact on the community producers and there should be evidence in the form of interviews where these producers address the limitations and the challenges they have faced, it is also suggestive that ground realities of real time production should be better understood by means of in-depth fieldwork as secondary data has limitations in the form of non availability of data that can be interpreted to obtain a result from the same. The fieldwork can include the selection of diverse products shifting the focus from agricultural and food category products which already have a lot of existing literature associated with them to indigenous specific products which are yet to be analysed followed by qualitative interviews with community members, artisans, cooperatives, and local officials. By means of these interviews, future research has the scope of documenting the best practices and community led models of GI governance. However it needs to be preceded by a systematic gap analysis limited to not only the existing literature and the legal frameworks which are involved but also adequate community representation, where research could be conducted on particular communities which have distinctive and marginalised legal, anthropological and socio economic disciplines. It is in this context that the relevance of using geographical indications for indigenous prosperity can be evaluated better by identifying the notable challenges that were already existing and possibly trying to mitigate them by analysing the prospects of using such a tool which although has been explored in this paper but requires further investigation to come to a reasonable conclusion. Technological and institutional innovation is one more area which can be explored by future researchers in relation to how technology and institutional reforms can enhance the mode of protection that geographical

indications are currently offering by means of emphasis on the two concepts of digital documentation and e-commerce both of which are tools that are to be utilised more in the future as they provide a more systematic and structured mode of commercialisation. The research should include recognition and a thorough analysis of tools for digitally documenting traditional knowledge which previously has been using a historic method of partial oral documentation or no documentation at all due to the unavailability of data in a written form, this can led to the use of tools like blockchains and community owned traditional knowledge databases which simplifies the process of fulfilling the requirement of disclosure of the know hows during the registration procedure, post registration marketability becomes a crucial factor which can be handled by incorporating the usage of e commerce platforms which although not proven but comparatively provides a more profitable consumer base as all the details and feedback on the product are available to the consumers beforehand unlike products sold at the physical markets which does not guarantee equitable returns. The use of such modern technologies within these communities are not possible without capacity building or educational programs which need to be conducted to develop primary market knowledge and entrepreneurial skills amongst indigenous producers who can take sufficient control over their products by overseeing production, fixation of prices and earning sufficient returns. Future study should focus on translating scholarly research into awareness of bringing indigenous populations at the forefront of GI governance and other institutional positions by means of proposal of ideas and policy recommendations that can be studied and incorporated accordingly.

The idea of incorporating a sui generis model of governance is one of the factors that needs to be included in future studies on the same topic as without the implementation of local law the scope of using Geographical Indications becomes significantly narrow. The study can include the analysis of the gaps that are present in the existing model and how a sui generis model can be effective in fulfilling these gaps by means of systematically catering to the needs of specific communities and their associated people. It can be associated with the organisation of workshops for interaction between stakeholders, policy makers and legal practitioners with indigenous producers giving an insight into real world practice of using geographical indications and effectively using them to create profits from the products that will be manufactured. This roadmap not only suggests changes that need to be incorporated but aims to create transformation through research into the various aspects of indigenous living including social, political, economic and cultural aspects. The suggestions from future studies can have long term impacts on the overall usage and governance of geographical indications as they can potentially guide the working government to incorporate changes which will lead to enhance cultural preservation, which will help these economies generate income better and have effects on autonomy. The idea is to develop an inclusive model of GI governance under a more equitable intellectual property regime for communities from all walks of life and enhance their prospect of sustainability by means of positive protection of rights which not only awards them with absolute authority over their creations but also adequately compensate them for it.

5.5 BIBLIOGRAPHY:

STATUTES:

1. Geographical Indications of Goods (Registration and Protection) Act, 1999, Act No. 48 of 1999.

2. Trade Marks Act, 1999, Act No. 47 of 1999.

3. Copyright Act, 1957, Act No. 14 of 1957

4. Patents Act, 1970, Act No. 39 of 1970.

5. Designs Act, 2000, Act No. 16 of 2000.

BOOKS:

1. Dev Gangjee, Relocating the Law on Geographical Indications, Cambridge University Press.

2. Dev S. Gangjee, Research Handbook on Intellectual Property and Geographical Indications, Elgar, 2016.

3. Delphine Marie-Vivien, The Protection of Geographical Indications in India : A New Perspective on the French and European Experience, Sage Law, (2015)

4. Dr. B.L Wadehra, Law Relating to Intellectual Property, Universal Law Publications.

5. Marsha A. Echols, Geographical Indications for Food Products, Kluwer Law International (2007)

6. O'Connor, B2004.the legal Protection of Geographical Indications, Londonweet & Maxwell Ltd and Contributors.

7. Vandana Singh, The Law of Geographical Indication Rising above the horizon, (2017)

8. V.k Ahuja, Law Relating to Intellectual Property Rights, LexisNexis (2013)

9. S.K Mohanty, K.S Chauhan. Geographical Indications and sustainable development: insights from Indian Express, (2018)

10. Shiv Singh Sahai, the law of intellectual property rights: introductory, WTO, Patent laws, copyright laws, 2016

11. Amit Jha, Traditional knowledge systems in India, 2019

12. Aman Gupta, Human Rights of Indigenous people 1 and 2, 2005

INTERNATIONAL AGREEMENTS:

1. Paris Convention for the Protection of Industrial Property.

2. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods

3. Lisbon Agreement for the Protection of Appellations of Origin and their International Registration

4. The TRIPS Agreement

ARTICLES:

1. Title: Geographical Indications in India: A legal perspective, 2018
(Shobha Lata Udapudi and Ravi Shankar Sharma)

2. Title: Intellectual property rights and geographical indications: a study of Basmati rice, 2020
(P. Chelladurai and M.B.M Ismail)

3. Title: Geographical Indications in India: Policy, Practice and Challenges, 2019
(Amol.S.Bagade and Prasad Joshi)

4. Title: legal and regulatory framework of geographical indications in India, 2017
(Debanshu Shekhar Mahanta and Swaroop K. Nanda)

5. Title: Geographical Indications In India: Opportunities and Challenges, 2021
(Rakesh Jha and Ashutosh Kumar Singh)

6. Title: CHALLENGES POSING TO GEOGRAPHICAL INDICATIONS IN INDIA, 2023
(Shilpa Rathod)

7. Tile: Exploring the relationship between GIs and TK: An analysis of the legal tools for the protection of GIs in Asia, 2007
(N.S Gopalakrishnan, Prabha S. Nair and Arvind K. Babu)

8. Title: Geographical indications, sustainability and sustainable development: a biometric analysis, 2024
(Silva Martins, L.O de Oliveira, V.R.V Lora, Fraga I.D)

9. Title: A Premier to Traditional Knowledge protection in India: The road ahead, 2021
(Sambhu Prasad Chakrabarty, R. Kaur)

10. Title: fighting biopiracy: the legislative protection of traditional knowledge. 2007
(Javier Garcia)

11. Title: recognising indigenous peoples and local communities rights and agency in the post 2020 biodiversity agenda, 2022
(Reyes Garcia, V. Fernández llamazares)

12. Title: protecting and sharing biodiversity and traditional knowledge: holder and user tools, 2005 (Geertrui Van Overwalle)

13. Title: new paradigms for protection of biodiversity, 2008, journal of intellectual property rights, (Raghavan, Srividhya)

14. Title: traditional knowledge and patent issues in india, international journal for applied mathematics, 2018, (J.Tarunika and J.Tamilselvi)

15. Title: TK and biodiversity conservation in Gujrat, 2004, (Gavali, Deepa and Diwakar Sharma)

16. Title: the relevance of traditional knowledge systems for ethnopharmacological research: theoretical and methodological contributions, 2010, (Reyes Garcia)

17. Title: importance of indigenous knowledge, 2003, indian journal of traditional knowledge (Suman Sahai)

18. Title: community resources, intellectual property, international trade and protection of traditional knowledge. 2005, (Johanna Gibson)

19. Title: analysis of prospective geographical indications of India, 2005, journal of world intellectual property
(S.K. Soam)

20. Title: prospects and challenges of geographical indications in india, the journal of world intellectual property, 2010, (Kasturi Das)

21. Title: Historical Development of Geographical Indication Law under International Arena (2016), (Dr. Varun Shukla)

22. Title: Geographical Indications A Review of Proposals at the TRIPS Council: Extending Article 23 to Products other than Wines and Spirits, 4 ICTSD, (2003)
(Dwijen Rangnekar)

23. World Intellectual Property Organization, IMPLICATIONS OF THE TRIPS AGREEMENT ON TREATIES ADMINISTERED BY WIPO, WIPO PUBLICATION No 464.

24. World Intellectual Property Organization (WIPO), Geographical Indications and Introduction, (2017).

25. Title: Protection of Geographical Indications: National and International Perspective (2004), (V.K Ahuja)

26. Title: Geographical Indications and Legal Framework in India, Economic and Political Weekly (2003), (Suresh C Srivasta)

27. Title: TRIPs and GIs: Economic Significance and Rationale for Protection, Supremo Amicus, (Sanika Malik)

28. Title: The Protection of Agricultural Products under Geographical Indication: An Alternative tool for Agricultural Development in Indonesia, 22.J.Intellect. Prop. Rights. (2017), (Mas Rahmah)

29. Title: Geographical Indications and Quality Promotion in Food and Agricultural Markets: Domestic and International Issues (2010), (Lusia Menapace)

30. Title: ‘The Traditional Rice Wine of Dimasa Community of Assam: A potential Candidate for GI Registration, Journal of Intellectual Property Rights 2016. (Jupi Gogoi)

31. Title: The potential of geographical indications and Its legal protection, Web of Conferences (2018), (Faradila Yulistari Sitepu)

32. Title: legal implication of geographical indications in india, 2024, (Sunil Sudhakar Varnekar and Upankar Chutia)

33. Title: twenty years of geographical indications in india: progress, problems and policy recommendations, 2025, (Sangeetha Malladagudda and Manjusha R.S)

34. Title: Copyright laws as a means of extending protection to expressions of folklore. Journal of Intellectual Property Rights, 2005, (Dwivedi, Anurag, and Monika Saroha)

35. Title: Patents and TK of the uses of plants: Is a communal patent regime part of the solution to the scourge of bio piracy? Indiana Journal of Global Legal Studies, 2001, Mgbeoji, Ikechi

36. Title: The Legal Status of Geographical Indications in India. Bioved Journal, (2017), (Kumar, Sujit, & Srivastava, Shweta)

37. Title: "Geographical Indications in India: A case of Handicraft industry in Uttar Pradesh." Journal of World Intellectual Property, (2019), (Chaudhary, Meghna)

38. Title: Geographical Indications in India: Present Scenario. Library Philosophy and Practice (e-journal), (Patel, Rajiv M., & Zala, Lavji N), (2021)

39. Title: Geographical Indications: Issues of Intellectual Property Rights on Traditional Knowledge. Bharatiya Vidya Bhavan, (2005)
(Hegde, Gopalakrishna, & Harinarayana)

40. Title: Geographical Indications: A Handbook on Policy, Law and Implementation. Centre for Policy Research, (2006)
(Basheer, Shamnad, & Chandrashekharan, Sumathi)

WEBLIOGRAPHY:

1. https://ipindia.gov.in/registered-gls.htm

2. https://byjus.com/free-ias-prep/geographical-indication-tags-in-india/

3. https://thelegalschool.in/blog/what-is-gi-tag

4. https://www.ibef.org/giofindia

5.https://www.nlunagpur.ac.in/PDF/Publications/5-Current-Issue/2.%20CHALLENGES%20POSING%20TO%20GEOGRAPHICAL%20INDICATION%20IN%20INDIA.pdf

6. https://blog.ipleaders.in/geographic-indication-law-in-india/

7.https://www.drishtiias.com/daily-updates/daily-news-analysis/india-s-geographical-indication-landscape

8. https://depenning.com/blog/international-trade-impacts-of-geographical-indications/

9. https://www.ijcrt.org/papers/IJCRT1802370.pdf

10. https://link.springer.com/book/10.1007/978-3-031-71641-6

11. https://www.sciencedirect.com/science/article/pii/S0306919222001403

12.https://ledroitindia.in/protection-through-geographical-indications-international-and-national-trends/

13. https://ipindia.gov.in/act-1999.htm

14. https://www.indiacode.nic.in/handle/123456789/1981?locale=en

15.https://blog.ipleaders.in/analysis-geographical-indications-goods-registration-protection-act-1999/

16.https://www.indiacode.nic.in/show-data?actid=AC_CEN_11_60_00002_199948_1517807322766&sectionId=2617&sectionno=2&orderno=2

17. https://www.fao.org/faolex/results/details/en/c/LEX-FAOC082321/

18. https://markshield.in/geographical-indication-of-goods-act/

19.https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/entrepreneurship/registration-of-geographical-indications?lgn=en

20.https://kanoongpt.in/bare-acts/the-geographical-indications-of-goods-registration-and-protection-act-1999/chapter-iv-section-21-3d3217aecdb78dab

21.https://www.mondaq.com/india/trademark/1043076/registration-of-geographical-indications-in-india

22. https://ksandk.com/intellectual-property-rights/scope-of-registration-and-protection/

23.https://testbook.com/question-answer/india-enacted-the-geographical-indications-of-good--5f354d38f346800d0e255e91

24.https://www.altacit.com/resources/gi-geographical-indications/the-protection-of-geographical-indication-in-india/

25. https://www.slideshare.net/slideshow/a-case-study-on-gis-application/250454784

26. https://www.sciencedirect.com/science/article/pii/S258975782030007X

27. https://www.eurogeojournal.eu/index.php/egj/article/download/396/287/881

28. https://www.sciencedirect.com/science/article/pii/S2772416624001864

29. https://etasr.com/index.php/ETASR/article/view/5377

30.https://tind.wipo.int/record/44179/files/wipo-pub-952-2021-en-geographical-indications-an-introduction-2nd-%20edition.pdf

31. https://vajiramandravi.com/quest-upsc-notes/traditional-knowledge/

32.https://visionias.in/current-affairs/monthly-magazine/2024-06-22/environment/traditional-knowledge-in-india

33.https://www.wipo.int/web/wipo-magazine/articles/protecting-indias-traditional-knowledge-37721

34. https://or.niscpr.res.in/index.php/IJTK/article/view/3348

35. https://ili.ac.in/pdf/rlava.pdf

36. https://www.cbd.int/traditional/intro.shtml

37. https://nafaforestry.org/forest_home/documents/TKdefs-FH-19dec06.pdf

38.https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/04/Traditional-Knowledge-backgrounder-FINAL.pdf

39.https://www.un.org/uk/desa/traditional-knowledge-%E2%80%93-answer-most-pressing-global-problems

40. https://repository.law.uic.edu/ripl/vol17/iss1/3/

41. https://academic.oup.com/ejil/article/24/4/1205/606407

42. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2012724

43.https://www.iied.org/why-traditional-knowledge-indigenous-peoples-rights-must-be-integrated-across-new-global

44. https://unctad.org/system/files/official-document/ictsd2003ipd1_en.pdf

45.https://ledroitindia.in/protection-through-geographical-indications-international-and-national-trends/

46.http://docs.manupatra.in/newsline/articles/Upload/87888F62-B7F8-4921-A0DA-C0F30AD570CC.pdf

47. https://depenning.com/blog/international-trade-impacts-of-geographical-indications/

48. https://academic.oup.com/ejil/article/18/2/337/361981

49.https://ftp.itc.nl/pub/pgis/PGIS%20Articles/bridging_the_gap_the_role_of_spatial_info_tech_in_integrating_itk.pdf

50. https://geospatialworld.net/article/indigenous-knowledge-validates-gis-outcome/

51.https://www.giswatch.org/en/economic-social-and-cultural-rights-escrs/digital-protection-traditional-knowledge-questions-rais

52. https://www.wipo.int/en/web/traditional-knowledge

53. https://iwgia.org/en/india.html

54. https://iwgia.org/en/india/5117-iw-2023-india.html

55. https://en.wikipedia.org/wiki/Adivasi

56. https://egyankosh.ac.in/bitstream/123456789/83141/1/Unit-3.pdf

57.https://www.culturalsurvival.org/publications/cultural-survival-quarterly/aboriginal-groups-india

58. https://www.amnesty.org/en/what-we-do/indigenous-peoples/

59. https://www.ohchr.org/en/indigenous-peoples/about-indigenous-peoples-and-human-rights

60. https://en.wikipedia.org/wiki/Indigenous_rights

61. https://egyankosh.ac.in/bitstream/123456789/83139/1/Unit-1.pdf

62. https://biocultural.iied.org/un-declaration-rights-indigenous-peoples

63.https://aumirah.com/geographical-indications-gi-and-cultural-heritage-why-ip-matters-for-local-communities-in-india/

64.https://escholarship.org/content/qt98s9x425/qt98s9x425_noSplash_bd9f3f1b5154dc6d400216c266bec77e.pdf

65.https://geospatialworld.net/prime/prime-opinion/bridging-digital-gap-indigenous-land-forest-rights/

66.https://ijalr.in/volume-5-issue-3/gis-as-guardians-a-legal-perspective-on-safeguarding-indigenous-knowledge-aditya-jain/

67.https://ijalr.in/volume-5-issue-3/gis-as-guardians-a-legal-perspective-on-safeguarding-indigenous-knowledge-aditya-jain/

68. https://nyaaya.org/guest-blog/rights-of-tribals-and-indigenous-persons-in-india/

69. http://www.penacclaims.com/wp-content/uploads/2019/07/Karun-Roy.pdf

70. https://www.manupatra.com/roundup/363/Articles/Protection%20to%20Ind.pdf

71.https://jsis.washington.edu/news/integrating-geographic-information-systems-and-indigenous-knowledge-in-the-implementation-of-impact-assessments/

72. https://link.springer.com/article/10.1007/s10978-023-09343-8

73.https://legalserviceindia.com/legal/article-13914-geographical-indications-gis-and-intellectual-property-rights-ipr-in-india-a-nexus-of-tradition-and-sustainability.html

74.https://geospatialworld.net/prime/prime-opinion/mapping-safeguards-indigenous-land-forests/

75.https://www.context.news/ai/opinion/how-technology-can-help-save-indigenous-forests-and-our-planet

76. https://www.sciencedirect.com/science/article/pii/S0264837723002077

77. https://blog.ipleaders.in/ipr-vis-vis-traditional-knowledge/

78.https://depenning.com/blog/ip-and-indigenous-communities-protecting-traditional-knowledge-and-cultural-heritage/

79. https://www.tandfonline.com/doi/full/10.1080/18918131.2021.1947449

80.https://www.researchgate.net/publication/319768838_Protecting_community_rights_over_traditional_knowledge_Implications_of_customary_laws_and_practices_Interim_report

81. https://www.ohchr.org/Documents/Publications/GuideIPleaflet12en.pdf

82. https://www.mpil.de/files/pdf3/mpunyb_14_thesis_rosa_12.pdf

83.https://articles.manupatra.com/article-details/Intellectual-Property-and-Human-Rights-Protection-of-Indigenous-Interest-in-Today-s-International-Legal-Regime

84.https://iplawpost.wordpress.com/2020/11/12/human-rights-as-a-principle-for-the-protection-of-traditional-knowledge-of-indigenous-communities-in-india/

85.https://www.ip-watch.org/2014/01/17/special-report-traditional-knowledge-and-ip-view-from-the-ground-up/

86. https://or.niscpr.res.in/index.php/JIPR/article/download/1052/3094/47041

87.https://india.mongabay.com/2024/06/gi-tags-protect-indian-tradition-amid-impacts-of-climate-change-biodiversity-loss/

88.https://www.netkp.org/public/index.php/single-resource/aFFTWThhZUFwaHlWdkFqYnk3Y0VwZz09

89. https://ageconsearch.umn.edu/record/61577/usage

90.https://rcoombe.blog.yorku.ca/files/2015/02/Geographical-Indications_-The-Promise-Perils-and-Politics-of-Protecting-Place-Based-Products_CoombeIvesHuizenga2014.pdf

91. https://www.hcindiabrunei.gov.in/docs/16115649719.pdf

92. https://egyankosh.ac.in/bitstream/123456789/51678/1/Unit-9.pdf

93. https://abipco.gov.ag/traditional-knowledge/

94.https://www.cambridge.org/core/books/geographical-indications-at-the-crossroads-of-trade-development-and-culture/shifting-relationship-between-geographical-indications-traditional-knowledge-and-cultural-heritage/256D48B654068E4044B3BE427B7634D1

95.https://brill.com/display/title/71699?srsltid=AfmBOoojV3KI99KkffaZ1_AYHsqf8QrxgrlDIqUo5pHoqeCG8Cch-TvH

96.https://www.iiprd.com/protection-of-traditional-knowledge-and-cultural-heritage-under-ipr-an-indian-outlook/

97.https://lawessential.com/blogs-ip/f/protection-of-traditional-knowledge-in-international-posture?blogcategory=IC-IPL+Blogs

98.https://lawessential.com/blogs-ip/f/protection-of-traditional-knowledge-in-international-posture?blogcategory=IC-IPL+Blogs

99. https://digital.sandiego.edu/cgi/viewcontent.cgi?article=1283&context=ilj

LL.M D-1.docx

Turnitin

Document Details

Submission ID
trn:oid:::13381:92237156

Submission Date
Apr 21, 2025, 10:24 PM GMT+5

Download Date
Apr 21, 2025, 10:27 PM GMT+5

File Name
LL.M D-1.docx

File Size
197.7 KB

143 Pages

51,122 Words

301,272 Characters

3% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

Filtered from the Report

- Bibliography
- Quoted Text
- Small Matches (less than 14 words)

Match Groups

49 Not Cited or Quoted 3%
Matches with neither in-text citation nor quotation marks

4 Missing Quotations 0%
Matches that are still very similar to source material

0 Missing Citation 0%
Matches that have quotation marks, but no in-text citation

0 Cited and Quoted 0%
Matches with in-text citation present, but no quotation marks

Top Sources

3% Internet sources
1% Publications
2% Submitted works (Student Papers)

Integrity Flags

0 Integrity Flags for Review

No suspicious text manipulations found.

Our system's algorithms look deeply at a document for any inconsistencies that would set it apart from a normal submission. If we notice something strange, we flag it for you to review.

A Flag is not necessarily an indicator of a problem. However, we'd recommend you focus your attention there for further review.

Match Groups

49 Not Cited or Quoted 3%
Matches with neither in-text citation nor quotation marks

4 Missing Quotations 0%
Matches that are still very similar to source material

0 Missing Citation 0%
Matches that have quotation marks, but no in-text citation

0 Cited and Quoted 0%
Matches with in-text citation present, but no quotation marks

Top Sources

3% Internet sources
1% Publications
2% Submitted works (Student Papers)

Top Sources

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	Internet	
blog.ipleaders.in		<1%
2	Internet	
books.openedition.org		<1%
3	Internet	
www.iprsonline.org		<1%
4	Internet	
pdfcoffee.com		<1%
5	Internet	
qspace.library.queensu.ca		<1%
6	Submitted works	
The WB National University of Juridical Sciences on 2024-06-27		<1%
7	Publication	
Julia N. Nakamura. "International Law for Small-Scale Fisheries - Connecting the E...		<1%
8	Internet	
www.legalindia.com		<1%
9	Publication	
Chidi Oguamanam. "Wandering footloose: Traditional knowledge and the "Public ...		<1%
10	Internet	
ijirl.com		<1%

11	Publication	
	Reshma Chengappa. "DISTRIBUTIVE JUSTICE FOR THE DEVELOPMENT OF TRIBAL C...	<1%
12	Submitted works	
	Asia Pacific Instutute of Information Technology on 2022-01-17	<1%
13	Submitted works	
	The WB National University of Juridical Sciences on 2024-06-28	<1%
14	Internet	
	en.wikipedia.org	<1%
15	Internet	
	www.wto.org	<1%
16	Publication	
	Harleen Singh Sandha, Pranjal Khare, Paridhi Sharma. "chapter 12 Integrating Tr...	<1%
17	Publication	
	Victoria Reyes-García, Álvaro Fernández-Llamazares, Yildiz Aumeeruddy-Thomas, ...	<1%
18	Internet	
	listens.online	<1%
19	Submitted works	
	St. Xavier's College on 2023-05-26	<1%
20	Submitted works	
	Universitaet Hamburg on 2010-09-22	<1%
21	Internet	
	christuniversity.in	<1%
22	Submitted works	
	NALSAR University of Law Hyderabad on 2016-06-08	<1%
23	Submitted works	
	Santa Clara University on 2009-05-11	<1%
24	Internet	
	vdoc.pub	<1%

25	Submitted works Bangladesh University of Professionals on 2021-12-28	<1%
26	Publication Manu Bansal, Rahul Singh. "Blessing of geography: Impact of geographical indica...	<1%
27	Publication Subramayam Vemulpad, Joanne Jamie. "Recent Advances in Plant-Based, Traditio...	<1%
28	Submitted works The University of Buckingham on 2020-07-01	<1%
29	Internet tel.archives-ouvertes.fr	<1%
30	Internet www.kas.de	<1%
31	Submitted works College of Europe on 2006-06-06	<1%
32	Submitted works Foundation College of Europe on 2021-05-13	<1%
33	Publication Geertrui Van Overwalle. "Protecting and sharing biodiversity and traditional kno...	<1%
34	Submitted works Maharashtra National Law University on 2023-02-02	<1%
35	Submitted works The WB National University of Juridical Sciences on 2020-05-10	<1%
36	Internet dspace.cus.ac.in	<1%
37	Internet kmco.co.ke	<1%
38	Internet paduaresearch.cab.unipd.it	<1%